# THE NEUTRALITY OF CHILE DURING THE EUROPEAN WAR

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## THE FIRST PERIOD OF THE NEUTRALITY OF CHILE, PRIOR TO APRIL 6, 1917

If the neutrality of Chile be considered with calm judgment in the light of historical reality, it offers no occasion for surprise during the period that extended from the breaking out of the European War until the date at which the United States entered it as a belligerent, that is, from August, 1914, until April, 1917. It is in no wise surprising, I say, since the unneutrality of Chile would be inconceivable at that stage of the war, owing to the circumstances that existed at the time in our hemisphere. Beginning with the latter date, the neutrality of Chile, if, indeed, much less onerous, stands out as a more significant fact, because several of the Latin-American countries "theoretically" adopted the attitude of the United States by declaring war upon the German Empire, while another group of these countries confined itself to breaking off diplomatic relations with that Power. Of the five republics that maintained their neutrality until the end, Chile was, without doubt, the one that had to show greater zeal to keep within the law and to retain the confidence that had always been reposed in her by the most powerful nations of the world.

I have said that the neutrality of Chile, up to April 6, 1917, does not constitute a strange historical phenomenon, because the entire American continent decided frankly in favor of neutrality from the breaking out of the war. No authority upon international law could condemn this attitude by germane arguments, nor would all the eloquence of sentiment possess weight against it.

The whole of America recognized that the situation of Europe was then almost unbearable because of the political and military rivalries of the great nations, and as a direct consequence of former wars that had produced what Lord Grey called "a peace of iron" and what Léon Bourgeois called "a peace without justice." The conflict was

not a mystery, but, rather, a certainty. It was a subject discussed with freedom in books and newspapers, even in the countries that cherished no sanguinary designs. Manifold proofs of the fact were offered by crises weathered with difficulty—thanks, at times, to generous sacrifices on the part of France, and, at others, because of the want of an aggressor.

What was not within the range of human prevision was the brutal manner in which the catastrophe was to be precipitated, its magnitude, its duration or its transcendency. At the outset, it was the general opinion that the war would be short, and therefore its disasters proportionate. It was never supposed that the combined efforts of all the great armies of the world, all its enormous available financial strength and all its sources of production—to say nothing of mortgaging the future—would be necessary to bring it to an end. That there might be an urgent need, consequently, of theoretical aid, not to mention even less, the positive aid, of the Latin-American peoples in behalf of the Allied cause, had not crossed the mind of any statesman of Europe or America.

The Powers that controlled the seas were well aware that the products of the American continent were at their disposal, and they also knew, without any express declaration, that English and French influence was already old in Latin America when German influence began its work. European literature prior to 1917, even the most impassioned, was not disturbed by the neutrality of Latin America. It was so easy to argue in favor of that neutrality and to explain it as something logical; and it would have been so unthinkable to claim that it was our duty to follow, without a peremptory cause, the fate of one of the belligerents, that no one took an interest in solving this perfectly obvious problem.

On the other hand, beholding the reality of events, it would have been folly to suppose that weak and defenseless nations would expose themselves to the attacks of a powerful enemy, at a period in which the belligerent squadrons of Europe still sailed the remote seas in strife for the control of them. It would have been a boastful and foolish act for any of our countries, moved by the impulse of a chivalry without precedents in the history of the world, to declare war upon Germany while that empire still maintained its fleets of armed vessels along our coasts. To have engaged in such an adventure while the one great nation of America did not do so, simply

because grounds had not accumulated and because she did not possess the effective resources to give value to the act, would have signified that there existed in America no kind of international political equilibrium, inasmuch as any country was able to disturb it, with serious consequences. Admitting this hypothesis, a German naval division might have been able to begin hostilities upon the diminutive belligerent, and then the United States would have felt itself called upon to apply the Monroe Doctrine by mobilizing her navy, thus disturbing her political situation, and, as a consequence, doubtless jeopardizing the results which we have seen achieved since 1917. If, in the years of 1914 and 1915, any Latin-American Government had committed, of its own accord, the mistake of letting itself be drawn into the European War, or if it had abandoned its neutrality because of overt acts, it would certainly have prejudiced the interests of those it had intended to serve.

Let us now take up the question from another point of view.

It is nothing new to say that the United States exercises, and always has exercised, a profound moral influence over the policy of the Latin-American countries; above all, over the more cultivated and prosperous, as they are the ones which receive that influence without destroying their personality, but strengthening it, rather. From the time of Washington, the austere principles of the North American democracy have been an example for our public organisms. If we have been children of Europe intellectually, we have followed the evolution of North America constitutionally. There have existed misunderstandings, ill-will, suspicions and even crises between the United States and Latin America; but all this does not destroy the inevitable fact that a huge, highly organized and rich nation necessarily exercises authority over a group of small nations among which there are not many that have achieved a complete moral sovereignty.

Nor is it new to say that recent years have brought prosperity to what some call "The Pan-American policy," that is, an effort at material and moral interpenetration in the New World, based upon solidarity. This "new policy," whose platform has already been constructed, will, with the passing of the years, sustain a magnificent edifice. Why demonstrate that the United States is the axis of this policy, and that upon her rectitude and morality, as the fosterer of it, depends the adhesion or the aloofness of the Latin-American countries?

Well, therefore, for this reason the neutrality of Chile, during what I call its first period (1914-1917), may not be judged without examining the neutrality of the United States, a nation which, because of her greatness, was within the orbit of the conflict.

Chile beheld, without the least doubt, the neutrality of the government at Washington as the most sincere expression of the law of nations. In the same manner, Chile recognized that the reasons that caused the United States to take part in the war were based upon justice and the exhaustion of all other means. Reciprocally, the United States ought to recognize that the reasons which she had for remaining neutral until April, 1917, were the same as or better than Chile had for maintaining neutrality until the end of the conflict.

In those days of anguish, when the shock of the great nations seemed to have overthrown the rights of the weak nations, the word of the President of the United States attained greater prestige than ever in Latin America, because in coöperating for the defense of the continent, the greater contribution would have to be made by the United States.

On August 18, 1914, President Wilson said, in a proclamation to the people of the United States:

> Every man who really loves America will act and speak in the true spirit of neutrality, which is the spirit of impartiality and fairness and friendliness to all concerned. . . . I venture, therefore, my fellow-countrymen, to speak a solemn word of warning to you against that deepest, most subtle, most essential breach of neutrality which may spring out of partisanship, out of passionately taking sides. The United States must be neutral in fact as well as in name during these days that are to try men's souls. We must be impartial in thought as well as in action, must put a curb upon our sentiments as well as upon every transaction that might be construed as a preference of one party to the struggle before another.

On April 20, 1915, at a meeting of the Associated Press in New York, President Wilson expressed himself in this manner:

> The basis of neutrality is not indifference, it is not self-interest. The basis of neutrality is sympathy for mankind. It is fairness, it is good will, at bottom. It is impartiality of spirit and of judgment.

He added:

> We are the mediating nation of the world. . . . We are, therefore, able to understand all nations. . . . But I am interested in neutrality

because there is something so much greater to do than fight; there is a distinction waiting for this nation that no nation has ever yet got. That is the distinction of absolute self-control and self-mastery.

On December 7, 1915, in a message to Congress regarding German plots and the German-American intrigues, he said:

We have stood apart, studiously neutral. It was our manifest duty to do so. Not only did we have no part or interest in the policies which seem to have brought the conflict on; it was necessary, if a universal catastrophe was to be avoided, that a limit should be set to the sweep of destructive war and that some part of the great family of nations should keep the processes of peace alive, if only to prevent collective economic ruin and the breakdown throughout the world of the industries by which its populations are fed and sustained. It was manifestly *the duty of the self-governed nations of this hemisphere to redress, if possible, the balance of economic loss and confusion in the other, if they could do nothing more.*

This last was uttered by President Wilson when certain individuals were introducing panic in the essential industries of the United States by means of fires, attempts at dynamiting, the destruction of vessels, and organizations of espionage; when the expulsion of the Austrian Ambassador Dumba and that of Herr Dernburg, the imprisonment of Lieutenant Fay and of his twenty-five companions, the suit against the Hamburg-Amerika, the San Francisco plot, the affair of the Welland Canal and that of Lieutenant Wolf von Igel, et cetera, had already taken place. At that time also the steamers *William P. Frye, Falaba, Aguila, Cushing, Gulflight, Lusitania, Armenian, Orduna, Leelanaw, Arabic* and *Hesperian* had been torpedoed, involving loss to the United States. Already the American petroleum vessels *Portland, Lama* and *Vico* had been captured.

Many other direct crimes against the rights and interests of the United States and against international law followed in succession up to April, 1917, before the patience of the people of this country had become exhausted. Even on March 5th of that year, President Wilson, when he appeared before Congress to become invested for the second time with the presidency, said, referring to the thirty-one months that had passed since the breaking out of the war: "And yet all the while we have been conscious that we were not part of it."

The United States had taken one step forward, in spite of herself: she had entered upon armed neutrality, which President Wilson de-

fined in that same discourse with phrases filled with humanitarian sentiments:

We have been obliged to arm ourselves to make good our claim to a certain minimum of right and of freedom of action. We stand firm in *armed neutrality* since it seems that in no other way can we demonstrate what it is we insist upon and cannot forego. We may even be drawn on, *by circumstances, not by our own purpose or desire*, to a more active assertion of our rights as we see them and a more immediate association with the great struggle itself.

In recommending the declaration of war on April 2d, President Wilson said, in his celebrated message to Congress:

We have no quarrel with the German people. We have no feeling toward them but one of sympathy and friendship. It was not upon their impulse that their government acted in entering this war. It was not with their previous knowledge or approval.

So profound was the understanding which the American Government had of its duties, and so serious was its decision to break a neutrality which it would have desired always to maintain, that, on June 14, 1917, two months after war was declared, President Wilson, in an address on Flag Day, still considered it proper to explain and to justify what were the grave and repeated causes that led to the declaration of April 6th:

It is plain enough how we were forced into the war. The extraordinary insults and aggressions of the Imperial German Government left us no self-respecting choice but to take up arms in defense of our rights as a free people and of our honor as a sovereign government. The military masters of Germany denied us the right to be neutral. They filled our unsuspecting communities with vicious spies and conspirators and sought to corrupt the opinion of our people in their own behalf.

If the United States, with all its formidable power, entered the war only after numerous direct and indirect provocations, and upholding to the end the principle of neutrality as a sacred duty, is it logical to think that a weak country like Chile, incapable of adding any appreciable weight to the Allied cause and without having suffered any serious or immediate assaults upon her sovereignty or interests by an act of Germany, was in a position to enter the war?

Would it have been worthy of the antecedents of Chile, which at

other times was able generously to defend the liberty of Peru against the aggressions of Spain, to take a fictitiously warlike attitude upon a simple piece of paper, without making any sacrifice of men or money, that is, to declare war and not to make war? What would have been the juridical basis, the reasonable pretext, for such a fiction? It may be said—and the cheap pragmatists have said it—that she might have contributed by means of legislative measures to the suppression of German commerce within her borders; by not permitting any manifestations of German opinion; and by confiscating the property of Germans.

This may be answered by saying, first of all, that German commerce fell into inanition because of the blockade of Germany and the blacklists. The merchants who were able to sustain themselves did so by carrying on business with goods from North America. To the second, I will say that opinion in favor of Germany was not great in Chile, and that, on the other hand, it was not and could not have been silenced in the Latin-American countries that had declared themselves to be in a state of war with Germany. Confiscation would not have been effected with advantage to the country or to the cause, except in respect of the interned or refuged German vessels; and they were, in general, laid up, because of injuries done to their engines. Germany, on her part, would have compensated herself by confiscating the deposits of Chilean fiscal gold in the German banks and by disavowing certain considerable credits that Chilean establishments held against German firms. It is worthy of note, besides, that none of the Latin-American countries that adopted the fiction of war had recourse to confiscation, which is advantageous only when there is actual war and is therefore burdensome.

On the other hand, Chile, by turning over her entire production of nitrates to the United States and England, as we shall see later, supplied the manufactories of explosives with raw material without violating her neutrality.

I shall investigate, first, in the light of public documents, what was the duty of Chile during the conflict, in order to show, afterward, that the neutrality of my country was found worthy of the commendation of the great victorious Powers, without wounding the sentiments of the German people.

On August 3, 1914, the Government of Chile was informed by the Imperial German Legation in Santiago that the German Empire had

been at war with Russia from the first day of August. The same third day, the Minister of Foreign Relations notified the German Minister that Chile would preserve neutrality during the conflict. An identical reply was given to the other communications by the other legations, as the conflict continued to extend in Europe, and new "states of war" were produced.

On August 7th, Chile declared that, although she had not ratified them, she would adopt the conventions of the Second International Conference of The Hague relating to the rights and duties of neutrals in time of war, as the only authoritative rules to which the conduct of the authorities and inhabitants of the republic, in the observance of neutrality, ought to be adjusted.[1]

On August 14th, a decree of the Ministry of Foreign Relations, communicated to the Ministry of Marine, adopted a similar resolution in respect of the Declaration of the London Naval Conference of 1909, which had not been ratified by the Government of Chile.

Upon these two juridical bases and upon the general principles of the laws of nations, Chile began her career as a neutral country. Since from the beginning the Government desired to exercise all its care in maintaining this character, it ordered that, as soon as possible, certain vessels of the national navy should be stationed in the principal ports of the republic to render compliance with the rules of neutrality effective, as far as might be possible with the means at hand, as provided by the Hague Convention.

Immediate instructions were given to the authorities to exert every possible effort to render the purposes of neutrality of the Government of Chile always manifest. During the first months of the war, the Government of Chile issued several decrees to the same intent, and it is a satisfaction to say that the acts of the authorities and citizens were in hearty conformity with them.[2] The Government recommended the federal authorities to abstain from expressing in public opinions unfavorable to any of the belligerents, a respect in which

[1] *Memoria del Ministro de Relaciones de Chile*, December, 1914—December, 1915, Santiago, Chile, 1918, pages 83-84.

[2] A decree that attracted attention was the one that established as a jurisdictional sea of Chile, and therefore neutral, the interior waters of the Straits of Magellan and of the southern channels, even in the parts in which the shores are more than six miles distant from each other. This gave occasion to an exchange of notes with the Government of the Argentine Republic, which expressed itself as satisfied with the explanation of Chile.

Chile did not go so far as the United States when President Wilson asked for neutrality of action and thought, not only of the public functionaries, but also of all the citizens.

Chile, like the other maritime nations of South America, comprehended that the observance of neutrality would impose upon her severe sacrifices, greater, perhaps, than upon other countries, because her coasts were more extended, because of the difficulty of keeping watch upon the archipelagoes of the south, and because she had under her jurisdiction the Straits of Magellan, an essential passage for vessels between the Atlantic and the Pacific.

To prevent, as far as possible, complications growing out of the presence of belligerent units in South American waters, Chile used her efforts with the other governments to induce them to adopt uniformly the convention of The Hague relative to the rights and duties of neutrals in the event of maritime war.

Among the measures of the greatest importance adopted by the Government of Chile at the beginning of the war,[3] I ought to mention the one that absolutely prohibited any merchant vessel—in compliance with the Declaration of London—while it remained in Chilean waters from using wireless telegraphy,[4] she being obliged to disconnect some essential part of her apparatus in order that the prohibitions might not be in vain, and to remove the antennæ of such apparatus when a merchant ship, national or foreign, should have to remain in a port of the republic for more than four days.[5] The safeguarding

[3] The Government of Chile took steps at once to abate abuses in the expressions of the press and in public demonstrations, and to regulate telegraphic communications with the outside world and postal correspondence with the Central Powers, the relations between the foreign diplomatic agents and the Chilean functionaries, the issuance of passports, et cetera.

[4] The official communications of the Minister of Foreign Relations to the Minister of Marine of August 14, 1914, contained in the memorial cited, pages 84-86.

[5] This last provision was made in compliance with a demand presented by the Minister of France, October 8, 1914, supported by the Minister of Great Britain. The Minister of France said: "Referring to a conversation which I had the honor to hold with your excellency the first of this month, I consider it my duty to bring to your excellency's knowledge some new information which I have received with regard to the employment of wireless telegraphy in Chile in the interests of the German naval forces, and which constitutes an infraction of the rules and regulations of neutrality laid down by your excellency's government. According to this information, which may well be a subject for serious investi-

of the extensive coast of Chile demanded of the Government the constant use of her naval resources. Inasmuch as a permanent patrol service could not be established along the entire coast, the idea was adopted that foreign merchant ships, exposed to capture or to destruction on their courses from one port to another of the republic, should make use of certain trips of the Chilean naval squadron to sail in convoy under its protection.

It was also provided that the islands of Juan Fernandez should receive a periodic visit from a Chilean warship, for want of an established naval station there which would have called for resources that were not available. In particular cases, a special escort was provided for merchant ships, regarding the fate of which in the jurisdictional waters fear was entertained.

Every intimation of a representative of one of the nations at war that implied a violation of the neutrality of Chile gave rise, without loss of time, to a summary order and to a proper investigation with a view to applying the penalty. Provision was also made with all diligence to prevent baseless denunciations, and to this end the diplomatic representatives were requested, in formulating their claims, to indicate with the greatest possible exactitude, the source and ground of their complaints. In the case of persons with dual nationality, it was determined that the applicant for a passport must establish his character as such in the document itself, and that the bearer of such a passport might not have a right to the diplomatic protection of Chile, if any belligerent country should claim him as a citizen. The issuance of passports to Chileans who became naturalized after the declaration of war was refused. The granting of Chilean passports to foreign citizens was also discontinued.

The supply of fuel to the cruisers of belligerent countries was regulated by a decree of December 15, 1914, after a plan of agreement for making certain regulations upon this subject general throughout the American continent had been submitted to the consideration of the United States and some other countries of America.

The fact that Chile was a producer of coal led her to recognize at

gation, stations of wireless telegraphy appear to be operating in Valparaiso, not only between the German ships anchored in the bay, but also with a station installed at Valparaiso, and which might perhaps be found in the German hospital, located in the upper part of the city, or in the very house of the manager of the German line of steamers, the Kosmos, at the end of Plaza Ancha."

once that her situation would become embarrassing in the presence of maritime activities on the part of the belligerents, and that Convention XIII of The Hague, in its articles relating to the supply of fuel, was not only inapplicable but infeasible in respect of the neutrality and interests of Chile. Indeed, Article 19 of the convention cited provides that belligerent naval vessels may only ship sufficient coal in neutral ports to enable them to reach the nearest port of their own country; and Article 20 adds that such vessels may not replenish their supply in a port of the same Power within the succeeding three months.

The practical infeasibility of these provisions, which would tend to grave abuses, being evident, the Government of Chile, availing itself of the reservation of rights which Convention XIII of The Hague, in the fifth clause of its preamble, grants to the signatory countries to modify their prescriptions during the course of war, when experience has shown the necessity of such a change, and bearing in mind other circumstances, modified its adhesion to the convention cited. By a decree of December 15, 1914, it was provided that belligerent war vessels might ship only sufficient coal to enable them to reach the first coaling port of the nearest nation. The supply of merchant vessels was limited to the capacity of their ordinary bunkers or to what would be necessary for a direct voyage to a European port, provided they gave a guaranty to use the coal not otherwise than on that voyage. The Secretary of State of the United States considered this decree a definite act that might serve as a basis for resolutions upon the part of other governments.[6] Moreover, it was prescribed that before effecting the delivery of coal to a belligerent warship, authorization should be sought of the Directorate General of the Navy.

This decree elicited certain observations from the British Admiralty, in that section which has to do with the coaling of merchant vessels. On its part, the German Government declared that it could not recognize the right of the Government of Chile to decree that belligerent war vessels might provide themselves in Chilean ports with only coal sufficient to enable them to reach the nearest neutral coaling port. Germany considered this measure to be an innovation of the established rules of international law, and that it was favorable to the interests of the United States, England and France and to the prejudice of those of Germany.

[6] Memorial cited, page 116.

The British Admiralty was tacitly satisfied with the explanations given it by the Government of Chile and with the demonstrations of good will expressed by the latter to avoid any abuse that might prejudice England. The Minister of Foreign Relations, Señor Alejandro Lira, said:

> The Government of Chile, in the measures which it is adopting for the maintenance of neutrality, has no other design than to proceed with justice, without causing any person or any country an unmerited injury, and whenever new cases are offered for its consideration, of sufficient weight to alter its decisions, it will study them with a dispassionate mind.

As for the concrete cases of merchant vessels that had abused their coaling privilege, it was made clear that either the abuse had been committed before the decree became effective, or that it had been done in spite of the good faith and due diligence of the Government of Chile. It was also proven that certain charges were groundless.

Victualing was regulated according to a system based upon an estimate of the duration of the supply computed according to the per diem of consumption and the number of the crew, so that, when a belligerent war vessel was victualed in a port of Chile it might not revictual in a port of this country, save when its supply were exhausted by the ordinary consumption of the vessel.

In respect of merchant vessels armed for their own defense, the Government of Chile formulated its opinion in replying to the inquiry of the British Government:

> That just as Chile had never objected to admitting to its ports, in the character of merchantmen, vessels that had been auxiliaries of belligerent naval forces, which again become merchant vessels, so neither would she object to receiving merchant vessels armed for their own defense, provided the respective governments should comply with the following conditions: (*a*) that they should make known previously to the Government of Chile the name of the vessel; (*b*) that, from the ship's roll, passengers, merchandise, layout and armament of the vessel, it should appear in reality that she was a merchant vessel. If a vessel arrived without compliance with the provision for previous advice, it would be treated as under suspicion.[7]

The German Minister asked that the English cruiser *Orama* be interned at Valparaiso for having taken part in the attack upon the

[7] Decree of the Ministry of Foreign Relations of July 7, 1915.

German cruiser *Dresden*, within the three-mile limit of Chilean waters, and the Minister of Foreign Relations replied: "The fact of the violation of neutrality has not been made clear, and, besides, the *Orama* had reached Valparaiso in fulfillment of the humanitarian mission of bringing in the wounded Germans from the *Dresden*."

A similar request was presented by the German Minister in respect of the English cruiser *Kent*, which, after the sinking of the *Dresden*, entered Valparaiso and sought the use of the dock of Talcahuano to make visibly necessary repairs. The Minister of Foreign Relations declared that the case of the *Kent* was covered by Article 17 of Convention XIII of the Second Hague Conference, "a provision," said the Minister, "based upon the permanent grounds of a lofty altruism that must have preëminence over the transitory purposes of the sanction that inspired the second paragraph of Article 9, invoked by the representative of Germany."

Nevertheless, in order to provide for future cases, it was decreed that thereafter no belligerent vessel guilty of having violated the rules of neutrality would be admitted to ports of the republic, except in the case of damages provided for in Article 17 of the above mentioned Convention XIII.

"I shall now present a fact that may not be passed over without special mention and which shows the correctness with which our chancellery proceeded. When the Imperial German Government notified neutrals on January 31, 1917, that there would be established within a short time a maritime blockade zone around England, France, Italy and the western part of the Mediterranean wherein "any ship found, even if it be neutral," would be sunk without any consideration whatsoever, the Government of Chile, although it did not fear for its own vessels, as it would not send them to that zone, openly condemned that inhuman determination.

That measure, in the opinion of the Chilean Government, amounts to the restriction of neutral rights, to which this country cannot submit, because it is contrary to principles long recognized in respect of countries not at war. The recognition by Chile of the step taken by Germany would be equivalent to a departure from the strict neutrality which she has observed during the present European conflict. Chile therefore reserves her liberty of action to insist upon her rights, in case of an attack upon her ships.

## THE SECOND PERIOD OF THE NEUTRALITY OF CHILE SUBSEQUENT TO APRIL 6, 1917

What may be called the second period of the neutrality of Chile, that is, from the entrance of the United States into the war, was easier to meet, because, as the German warlike activities had disappeared from the Pacific long before, and as there were no reasonable grounds to fear that they might return, Chile found her task of vigilance much simplified. The control of suspicious persons in our territory was now perfectly organized, both by the Chilean authorities and by the system established for the issuing and viséing of passports by the foreign consuls upon whose responsibility depended the character of the individual. Besides, with the progress of the war, police methods and the personal identification and movement of passengers were sufficiently perfected to permit an almost complete vigilance.

From the point of view of international policy some have interpreted the neutrality of Chile, after 1917, as a demonstration of the fact that the United States did not have sufficient ability to draw with her into the war the other American countries of relative strength. Some have attributed the Chilean and Argentine neutrality to a fantastic German influence, the secret of which no one has discovered. The truth is, however, that Chile remained neutral for the same reason that she had been so hitherto, that is, because she was not affected by any of the grave causes that determined the decision of the United States, when the German policy had "prevented her from being neutral," according to the expression of President Wilson.

For Chile, neutrality continued to be a duty. "It is our manifest duty to do so," President Wilson had said in December, 1915. "It was manifestly the duty of the self-governed nations of this hemisphere to redress, if possible, the balance of economic loss and confusion in the other, if they could do nothing more."[8] According to the sound doctrine of President Wilson, a conflict of such magnitude could not be entered "by our own purpose or desire, but by circumstances."[9]

So be it; what "circumstances" could effect a change in policy on the part of Chile? For us, as for the United States, "the purpose

[8] Message to the Congress of the United States, December 6, 1915.

[9] Address of March, 1917.

or simple desire'' was not a sufficient cause for war, to make war, nor much less the desire to simulate a war of the spirit, in order to obtain advantage without any positive sacrifices. Nor did the fear of the conqueror ever enter our minds, either, because our neutrality was honest; and the idea of reprisals against a country that, in the extreme silence of the world, keeps within the strictest law, was not even remotely presumable.

Italy and China entered the conflict, because it affected them vitally and because they had other reasons for doing so; Roumania and Greece, because they were insistently besought and because they found themselves in the whirlpool, lent valuable coöperation. Portugal sent her troops to the battle front. Brazil aided, also, to a certain extent, in guarding the waters of the equatorial Atlantic.

Chile was neither solicited nor compelled, because she was not involved in the political causes of the war nor in its sphere of action, and because no one considered that a nation so far removed from the theater of hostilities might be useful as a military or financial entity, while she was so as a factor of production, for which peace was essential.

The United States, once in the war, never intimated to Chile the propriety of abandoning her neutrality. She did not believe that Latin America was involved in a *casus fœderis* derived from Pan-Americanism. She did not exercise any pressure upon Chile or the Argentine Republic, to the end that these two major nations of the south should accept as theirs the offenses that Germany had been guilty of toward the interests of the United States. Her campaign among the nations was limited to showing the governments and peoples that the United States was carrying on the war with justice and without any desire for conquest or indemnities, and impelled solely by the necessity for defending the cause of democracy.

Nor did the United States understand that the Pan-American policy, whose program was shaped in the First Pan-American Financial Congress, held in Washington in 1915, would be weakened by the fact that in America there were neutral and unneutral countries. We have already seen that hitherto the Pan-American policy did not mean an alliance, but the basis of a moral, social and commercial interpenetration derived from a mutual understanding.

It is pleasant to relate that the neutrality of Chile was highly appreciated by the United States, and that this country continues to

regard Chile as an efficient collaborator in the constructive work of Pan-Americanism.

### VIOLATIONS OF THE NEUTRALITY OF CHILE ON THE PART OF THE BELLIGERENTS

The British steamship *Orita* was detained upon the high seas by the British cruiser *Glasgow* and compelled to deliver a hundred and three pouches of mail intended for national residents and foreigners in Chile. The claim being established by appeal to Convention XI of The Hague, England maintained that the law set up in that convention referred to such correspondence as might be found on board a neutral or enemy vessel only, and not upon a belligerent ship under the nation's own flag, as the *Orita* was. Nevertheless, the British Government declared that in this particular case it did not desire to insist upon what it believed to be its right, and it issued orders to return the pouches.

The numerous merchant vessels under the German flag that were scattered along the coasts of Chile when war was declared gave rise to several complications, because many of these ships were converted into auxiliaries of the German navy, and it was necessary to treat them as vessels of war. On more than one occasion, the cases were open to doubt, as the German Government never gave official notice of the status of such vessels, and it fell to the Government of Chile to determine it, on the basis of its own investigations or from antecedents obtained from neighboring governments. As a rule, in attributing to these vessels the character of auxiliary cruisers for violation of Chilean neutrality, they were notified of the requirement to leave the port in which they lay at anchor within twenty-four hours. Those that did not comply with this order were interned, *de facto* and by voluntary act, until the end of the war. In settling the question in the manner in which it did, the memorial of the Ministry of Foreign Relations said:

> The Government of Chile stated the question in the following terms: Either the German Government admits, as its silence indicates, that these vessels form a part of the Imperial German Navy, or it denies them their character as such, thus leaving them in the position of vessels of private ownership that engage in acts of war or that coöperate with them upon their own responsibility, which is characteristic of vessels denominated piratical, and which makes them susceptible to confiscation by the state in whose territory they are found.

The steamers of the Kosmos Company were those that violated our neutrality with the greatest frequency and therefore they were declared auxiliaries of the Imperial Navy, and hence interned, because they did not leave the Chilean ports within the required twenty-four hours. They were ordered to discharge their supplies of coal, until there should be left them only what was necessary for harbor service. When the German naval power disappeared from the waters of the Pacific, the Government of Chile heeded the observations of the German minister and moderated the severity of the measures taken against these vessels. They were granted freedom to sail at their own risk, subject only to the general rules of neutrality which the Government of Chile had decreed, without prejudice to contingent circumstances which might compel a renewal of the rigor of the former decrees. The violations participated in by the steamers *Santa Isabel, Rakotis, Luxor, Memphis, Amasis, Karnac* and *Goettingen* were perpectly defined.[10] They all consisted of clandestine aid given to the German fleet.

The press of Chile published, November 20, 1914, a declaration attributed to the agent of the Kosmos Company, according to which:

> Every German steamship, although it belong to private companies, is placed under orders that are to be given by the German Admiralty. The captains of vessels must, above everything, obey the instructions they receive from war vessels, and, in the event, proceed with entire independence and even without giving any information whatsoever to the agent of the company.

These words explain clearly why the German merchant steamers so often violated the neutrality of Chile.

Infractions committed by belligerent war vessels are chargeable against Germany and Great Britain, as I shall hereafter proceed to state.

A German naval division, composed of twelve units, remained off the Island of Pascua, at the close of 1914, for five days, and it there took on a supply of provisions greater than what was normal in time of peace, thus violating Articles 12, 15 and 19 of Convention XIII of The Hague. The Island of Pascua is a very remote Chilean possession that belongs geographically to the system of archipelagoes of Oceania, and therefore it was almost impossible for Chile constantly to safeguard her neutrality there.

[10] Memorial of 1914-1915, page 156.

Another German naval division, composed of seven units, remained for seven days in the bay of the Juan Fernandez Islands, conducting three prizes (the French vessel *Valentine*, the Norwegian, *Helicon*, and the American, *Sacramento*), from which were passed fuel and victuals.

On December 6, 1914, the war transport *Prinz Eitel Friedrich* entered the port of Papudo without obeying the rules of the port regulations; and she disembarked fifty-eight of the crew of the English steamship *Charcas*, which the same German transport had sunk off the coast of Chile.

On March 9, 1915, the German cruiser *Dresden* anchored off the Bay of Cumberland (Juan Fernandez Islands) and sought permission to remain for eight days in the port in order to make repairs upon her engines. The maritime governor refused permission on the ground that the request was suspicious, inasmuch as the engines of the cruiser seemed to be in good condition when she entered the port. The authorities understood that it was a lack of coal that had in reality compelled the cruiser to await there the arrival of some auxiliary ship; and, in view of this, they gave her peremptory orders to leave the bay within the required period. She did not comply with the order, and they notified her that she was interned.

The Island of Pascua was the object of a new violation on the part of the auxiliary cruiser *Prinz Eitel Friedrich*, which cast anchor for eight days in the Bay of Angarroa. There she shipped coal from the French sailing vessel *Jean*, brought in as a prize. She also disembarked a body of marines upon a deserted spot, and they established a point of observation upon a hill.

The energetic protests of the Government of Chile, presented to the Imperial German Government on account of these five violations, were answered in a manner that did not wholly satisfy the Chilean Government, and as a consequence, the Government further insisted upon them, with a more abundant accumulation of data. The chancellor, Zimmermann, promised certain excuses for these incidents at such moment as conclusive proofs might be obtained that the neutrality of Chile had been positively violated.

The German cruiser *Dresden* was attacked, July 4, 1915, at her anchorage in the Bay of Cumberland, within five hundred meters of the shore, where she was interned, as has been seen above. The attack was made by a British naval division composed of the cruisers *Glasgow* and *Kent* and the auxiliary *Orama*. The flag of parley raised

by the *Dresden* being ignored by the attackers, and her explanation that she was in neutral waters being rejected, she received an order to surrender, which was not obeyed. Then the English vessels opened fire upon the *Dresden*, and her crew blew up the vessel. The Government of Chile, which had already protested against the presence of the *Dresden* in the territorial waters, protested, in turn, to the British Government, on March 26th, on account of the act of violation committed in attacking the German cruiser under such circumstances. Sir Edward Grey replied four days later, stating that he deeply lamented any misunderstanding with the Government of Chile, and that, abiding by the facts "as stated in the communication made to them, they are prepared to offer a full and ample apology to the Chilean Government." Sir Edward Grey ended his note by saying:

> But in view of the length of time that may be required to clear up all the circumstances and of the communication that the Chilean Government may have made of the view it may take of the information it has of the circumstances, his Majesty's Government does not wish to qualify the apology that it now presents to the Chilean Government.

In order to terminate this paragraph, I desire to mention that the crew of the German cruiser *Dresden*, sunk at Juan Fernandez, was interned by the Government of Chile upon the Island of Santa Maria, it basing this action upon Articles 57-60 of the Convention of The Hague of 1899 concerning the laws and uses of land war, and upon the provisions of Conventions V (second paragraph), X (Articles 14 and 15) and XIII (Articles 3, 21 and 24) of the Second Conference, the import of which is: Every belligerent armed force that shall enter a neutral territory must be interned, whether in the case of those who are wounded or shipwrecked, or of persons who have the neutrality of the state. The German Government declared that this internment was inadmissible because the crew of the *Dresden* had been forced to land upon Chilean territory only as a result of the violation of international law committed by England. Germany maintained that "no international practice or convention was applicable to the case as it was a question of an occurrence not foreseen by international law."[11] The British Government was consulted regard-

[11] Note of von Eckert, Minister of Germany in Chile, replying to a proposal to set at liberty within the territory the crew of the *Dresden*, provided they would give their word not to participate again in hostilities.

ing the case, in order that an agreement might be reached that would not violate the principles upheld by Chile, and that government held that "in view of the events which had occurred in the United States (fires, explosions, et cetera), it was dangerous to set at liberty this crew who might set about injuring British commerce." The crew of the *Dresden* was kept interned until the end of the war, not without new incidents, one of which was caused by the wrecking of a transport of the national navy, the *Casma*, sent in pursuit of certain interned fugitives. The *Casma* was a transport of eight thousand tons and of great value to the country at that time. Moreover, the maintenance of this numerous crew has caused the Government of Chile enormous sums, which are still to be recovered.

**A French Claim.**—The Government of France demanded of the Government of Chile, in severe terms, compensation for the capture and destruction of the French ship *Valentine*, torpedoed by the cruiser *Leipzic* of the Imperial German Navy in the jurisdictional waters of Chile. The Government of Chile energetically rejected the imputation of culpable negligence in the observance of neutrality, made by the French Government, and it ordered an especial investigation, which threw no light upon the precise spot in which the sinking of the vessel had taken place, in spite of the fact that the investigation was carried on with the aid of the captain of the *Valentine* himself. When the defense of the Government of Chile was presented against the charge that the French Government addressed to it, the latter did not insist upon its demand.

### EXPRESSIONS OF APPRECIATION REGARDING THE NEUTRALITY OF CHILE

I transcribe here some of the expressions of appreciation which the scrupulous attitude of Chile during the war has called forth from the Government of Great Britain, whose friendship and whose intimate knowledge of the country and of our history are traditional, from the days in which an English sailor, Lord Cochrane, was the originator and admiral of the first Chilean squadron, now a century ago. The British Government, aware, besides, that our extensive coasts—more than four thousand kilometers—could only be guarded in so far "as the means at its disposal allowed," as runs Article 25 of Convention III of the Second Conference of The Hague, was able to give to our efforts all the value they possessed, since, in reality, they exceeded "the means at our disposal," to the point of sacrifice.

So well did the British Government recognize this that during the war it presented Chile a small squadron of submarines and an aërial fleet of fifty combat planes, with all their accessories and installations, as an extraordinary compensation to Chile for having conceded to Great Britain two powerful dreadnoughts, several destroyers and other minor vessels, which were being constructed at English shipyards.

Señor Alejandro Lira, Minister of Foreign Relations of Chile, in the memorial of his department,[12] said, addressing the Minister of France:

The effort displayed by the Government of Chile was particularly advantageous to the British maritime commerce, to the extent that the amount of the latter has been a hundred times greater than that of any other belligerent or neutral flag, including the French. Of immense value, consequently, is the judgment that has been elicited from the government most affected in the interests of its nationals in respect of the attitude of the Government of Chile during the present European conflict.

In the month of November, 1914, the Minister of Foreign Relations of Great Britain, Sir Edward Grey, delivered to the press of London, the following official communication:

Statements have recently appeared in the British press to the intent that Chile has failed in the observance of the laws of neutrality. *These declarations are not in accord with the facts, and they do not in any way reflect the opinion of the Government of his Britannic Majesty.*

Sir Francis Stronge, the Minister of Great Britain in Chile, confirmed this opinion of his chancellery in several official communications to the Ministry of Foreign Relations of Chile, as I am going to demonstrate with certain quotations gathered from documents:

Permit me to thank your excellency for the promptness which has been displayed by the Government of Chile in taking up this subject [the measures for the observance of neutrality], regarding which I have already informed the Government of His Majesty.[13]

I fully recognize that the Chilean Government and authorities have shown great zeal and activity in their efforts to protect the neutrality of Chile.[14]

I desire to express to your excellency my appreciation of the atti-

[12] Memorial of 1914-1915, page 197. [13] Note of August 15, 1914.
[14] Note of October 6, 1914.

tude of the Chilean gunboat in thus protecting a British vessel against an attack in Chilean waters.[15]

The Admiralty trusts that the old traditions of comradeship that unite the British and Chilean navies will move the Government of Chile to do all that it can, within the limits of neutrality, to seek and to rescue the officers and sailors wrecked upon the coast and islands of Chile. I hardly need to say that when these instructions were despatched, Sir Edward Grey had not yet received a telegram of mine in which I informed him of the rapid and generous action of the Government of Chile in sending a transport to the place of the recent combats and in conveying adequate instructions to the authorities of the littoral.[16]

I have the honor to communicate to your excellency my sincere thanks for the rapid measures that the Government of Chile has taken, in despatching a war vessel for the purpose of preventing the British ship *Oronza* from being attacked in the territorial waters.[17]

I know too well that the application of Chilean neutrality has imposed a task too heavy upon the Chilean naval forces, and I feel myself restrained from formulating a petition that will increase their labors.[18]

I have the honor to communicate to your excellency that I have received a telegram from Sir Edward Grey in which he instructs me to express to the Chilean Government the satisfaction which his Majesty experiences over the measures that Chile has taken to maintain her neutrality by holding temporarily the vessels of the Kosmos Company and by preventing them from shipping coal.[19]

I think worthy of mention, because of their importance, the words of Sir Maurice de Bunson, who visited the Republic of Chile as a special ambassador in 1916, and of Lord Curzon, the Minister of Foreign Relations of Great Britain. Sir Maurice expressed without reserve his admiration of the conduct of Chile during the war and of the organization of our country, affirming that it was there he found an environment of deepest sympathy with England. Lord Curzon, at a banquet given in London a few months ago, in honor of the special embassy of Chile, presided over by Señor Ismael Tocornal, pronounced a discourse filled with the most pleasing demonstrations of friendship for Chile, and he said that, in all the course of the relations of Chile with Great Britain, there had never occurred

[15] Note of November 1, 1914.
[16] Note of November 7, 1914.
[17] Note of November 6, 1914.
[18] Note of November 23, 1914.
[19] Note of December 3, 1914.

a disagreement. Referring to our neutrality during the war, he qualified it as wise and correct and not lacking in benevolence toward the cause of the Allies.

### CHILE AS A SOURCE OF RAW MATERIAL FOR MUNITIONS

The National City Bank of New York, in a report upon the economic and financial condition of Chile during 1919, said, in discussing saltpeter: "The nitrate industry has served to an extent not exceeded by any other in the war which has ended with the vindication of the cause of liberty." This phrase would need no comment, if I did not have to add a special observation that nitrates are a Chilean monopoly, since she is the only country that produces this salt. In time of peace, it fertilizes the fields and it has saved many countries from agricultural exhaustion; in time of war, it is the raw material of explosives. It is not an exaggeration to say that Germany owed her defeat in part to the impossibility of obtaining abundant and cheap raw material for her projectiles. When the war broke out, her stock of Chilean nitrates did not reach a million tons, according to what has been said. The German chemist Oswald, mentioned by Waldemar Kaempffert, editor of *The Popular Science Monthly*, wrote some years before the war:

> If today a great war should break out between two great Powers of which one were to prevent the export of saltpeter from the ports of Chile, it would thereby make it impossible for the enemy to continue longer than its ammunition supply would last.

Well then: it being known that Chile neither put any obstacle in the way of commerce in saltpeter nor raised the price of it to any considerable extent, could the most exacting enemies of neutrality overlook the fact that, by this mere act alone, Chile rendered more assistance than if she had entered the war without a direct motive, thus exposing the plants for the elaboration of saltpeter to the danger of destruction or interruption?

Mr. Bernard M. Baruch, the head of the raw material division of the War Industries Board of the United States, testifying at the custom-house before a subcommittee of the House committee which is investigating war expenditures, declared that the nitrate situation became critical for the Allies in the spring of 1918. At that time, he said, a break of from thirty to sixty days in the flow of Chilean

nitrate to the munition factories of England, France, Italy and the United States *would have caused all of them to close.* "If Germany had seized her opportunity and bought up the Chilean nitrate fields and closed them down, *it is horrible to contemplate what might have happened,*" added Mr. Baruch.[20]

Chile did not give Germany this opportunity. On the other hand, the Government of Chile bought from the German nitrate operators all their production of nitrates and paid for it with the gold that Chile had deposited in Berlin and Dresden. These nitrates were immediately resold by the Government of Chile to the Allies.

### NEUTRALITY DOES NOT MEAN INDIFFERENCE

Neutrality is a juridical state constituted by the special duties and rights which war creates between belligerents and other nations. This juridical state, however, does not signify indifference, as President Wilson said, nor is it "neutrality in the face of crime," as excited extremists have said.

Chile, as a social collectivity, showed a passionate interest in the events of the war; the invasion of Belgium and the tragic fate of that nation excited the deepest sympathy among the society of my country, which at every moment was profoundly moved, as is natural in the time of misfortune, by that people, smitten by the sword of a crushing military power. It is not germane to speak of our material aid given to the sufferings of Europe; it is sufficient to know that Chile is the Latin-American country that contributed most to the Red Cross and other beneficent institutions. Lucien Guitry wrote in *Le Figaro,* of Paris, a beautiful article to pay homage to the generosity and nobility of Chilean society.

I think I am stating an incontrovertible truth when I affirm that the neutrality of Chile, legal and necessary, was in accord with the measures of good government; but also it is true that the majority of the people of Chile, because of their peaceful sentiments, their traditions of culture and their old bases of intellectual formation, heartily sympathized with the fall of that militarism whose first victim was the German people itself.

Chile complied with her duties as a neutral, without being indifferent.

[20] The New York *Sun* of December 11, 1919.

# THE PAN-AMERICAN FINANCIAL CONFERENCES AND THE INTER-AMERICAN HIGH COMMISSION

By John Bassett Moore

*Vice-Chairman of the Inter-American High Commission and Vice-President of its Central Executive Council*

On March 12, 1915, while the Great War, daily increasing in intensity, was drawing the world more and more into its vortex, the American Governments were, in the name of the President of the United States, invited to send delegates to a conference with the Secretary of the Treasury, at Washington, with a view to establish "closer and more satisfactory financial relations between the American Republics." To this end it was intimated that the conference would discuss not only problems of banking, but also problems of transportation and of commerce. It thus came about that there assembled in Washington on Monday, May 24, 1915, under the chairmanship of the Honorable William G. McAdoo, Secretary of the Treasury, the first Pan-American Financial Conference.

The subjects submitted to the conference embraced public finance, the monetary situation, the existing banking system, the financing of public improvements and of private enterprises, the extension of inter-American markets, the merchant marine and improved facilities of transportation. It was a program that went beyond the emergencies growing out of the war; and the conference in its deliberations did not confine itself to the adoption of temporary devices. On the contrary, it sought to meet a permanent need by establishing an organization which should devote itself to the carrying out of a task whose importance was not to be measured by temporary conditions, whether of war or of peace.

The formulation of the program of future work was entrusted to the Committee on Uniformity of Laws relating to Trade and Commerce and the Adjustment of International Commercial Disputes.

The report of this committee, while reserving for separate and distinct treatment the difficult and complex problems of transportation, recommended that the following subjects should be specially pressed:

1. The establishment of a gold standard of value.
2. Bills of exchange, commercial paper, and bills of lading.
3. Uniform (a) classification of merchandise, (b) customs regulations, (c) consular certificates and invoices, (d) port charges.
4. Uniform regulations for commercial travelers.
5. Measures for the protection of trade-marks, patents, and copyrights.
6. The establishment of a uniform low rate of postage and of charges for money-orders and parcels-post between the American countries.
7. The extension of the process of arbitration for the adjustment of commercial disputes.

For the purpose of dealing with these subjects, and particularly for bringing about uniformity of laws concerning them, the committee recommended that the independent American countries establish an Inter-American High Commission, to which each country should contribute a section. To this end each Minister of Finance, or, in the United States, the Secretary of the Treasury, was to appoint not more than nine persons, residents of the country, who, with himself as *ex officio* chairman, should constitute the national section, the aggregate of these sections constituting the Commission. The advantages of this plan were obvious. As the national sections, composed of citizens of the respective countries, and headed each by a cabinet minister, were in immediate relations with their governments and could deal with them directly, the work of the international body could by this means be carried on continuously and in all the countries at once, without suspicion of intrusiveness or suggestion of impropriety, and also without the complications, perplexities and delays which circuitous methods and absorbing formalities tend to engender. The recommendations of the committee were unanimously adopted, and the Inter-American High Commission came into being.[1]

The conference further resolved that the local members of the

[1] In fact, the title "International High Commission" was then used; but, as "Inter-American High Commission," which is more accurate, has since been substituted for it, I use the latter throughout this paper, so as to avoid the perpetuation of a discarded title.

Inter-American High Commission should be immediately appointed in their respective countries; that they should at once begin preparatory work; that the various governments should be requested through their appropriate departments to coöperate in the work of the Commission; and that the members of the United States Section should, as soon as practicable, proceed to visit the other American countries to meet the members of the Commission there resident. The establishment of the Inter-American High Commission was a measure of the greatest practical significance.

In 1889, there met at Washington the first of the assemblies known as the International American Conferences, of which four have so far taken place, and of which the fifth, but for the outbreak of the war in 1914, would long since have been held. Although the first of these conferences encountered criticism and even derision, it would be difficult, if not impossible, to find any one today who would either censure their spirit and purpose or deny their beneficent effects. The good results accomplished by them could hardly be overestimated. They undoubtedly blazed the way for the numerous other conferences, scientific, educational and economic, in whose proceedings the progress of Pan-Americanism during the past three decades is recorded. But the International American Conferences had one capital defect: they lacked a permanent organization to carry on their work. Hence, after they adjourned, the excellent and far-reaching plans which they had incorporated in treaties, conventions and resolutions, often lapsed and remained unexecuted for want of a continuous and permanent body to follow them up and attend to their ratification, application and development. The want of such a body in our inter-American relations was supplied by the creation of the Inter-American High Commission, the United States Section of which was legislatively sanctioned by the Act of Congress of February 7, 1916.

In conformity with the resolutions of the first Pan-American Financial Conference, the United States Section in due time proceeded to Buenos Aires, where, in April, 1916, the Inter-American High Commission held its first general meeting, under the presidency of the Hon. Francisco J. Oliver, Argentine Minister of Finance. All the national sections of the Commission were represented at this meeting, more than seventy of its members being in attendance. Nothing could more clearly attest the general interest felt in the work or the universal appreciation of its practical importance.

At Buenos Aires the Commission, besides dealing with the subjects designated by the first Pan-American Financial Conference for special treatment, also included in its deliberations the question of international agreements on uniform labor legislation; uniformity of regulations governing the classification and analysis of petroleum and other mineral fuels with reference to national development policies; the necessity of better transportation facilities between the American Republics; banking facilities, the extension of credit, the financing of public and private enterprises, and the stabilization of international exchange; telegraphic facilities and rates, and the use of wireless telegraphy for commercial purposes; and uniformity of laws for the protection of merchant creditors.

At Buenos Aires the Inter-American High Commission also took an important step in the further development of an effective organization. This was done by the creation of a common organ or agency, called the Central Executive Council, consisting of a president, a vice-president, a secretary-general, and an assistant secretary-general; and as Washington was unanimously designated as the headquarters of the Commission till its next general meeting, the chairman, the vice-chairman, and the secretary of the United States Section thus became the Central Executive Council, with the responsibility of supervising, coördinating and carrying on the Commission's work.

The work has been steadily and energetically pressed. Valuable publications, intended to elucidate and support the measures which the Commission has in charge, have been prepared, printed, and circulated, and appreciable progress has been made in securing the adoption of those measures. In these activities the Central Executive Council has had the intelligent, hearty and efficient coöperation of the several national sections, which have, in many instances, made admirable studies of the subjects under consideration.

Substantial ameliorations of methods of customs administration have been secured in various quarters. Regulations permitting sanitary visits outside regular hours, the simultaneous loading and unloading of cargoes, and the advance preparation of cargoes, have been brought about in numerous countries. Progress has been made with the adoption of a uniform statistical classification of merchandise, as recommended by the Inter-American High Commission at Buenos Aires. Six countries have already taken favorable action, and two more are understood to be on the point of so doing. Every effort

has been made to advance uniform legislation in regard to bills of exchange, checks, bills of lading, and warehouse receipts, and appropriate documentary material has been prepared and circulated on those topics.

In dealing with the subject of bills of exchange, the Inter-American High Commission, taking into consideration the legal conceptions generally prevailing in the American countries other than the United States, and the opinions of their leading jurists, decided to recommend to those countries the adoption of The Hague Rules of 1912, with certain modifications. This decision has been justified by the results. Already The Hague Rules have been substantially incorporated in the codes of Brazil, Guatemala, Nicaragua, and in the new commercial code of Venezuela; and measures of like purport have been introduced in at least four other countries. We seem to be rapidly approaching the time when, so far as concerns bills of exchange, there will, in effect, be only two systems in use in the Western Hemisphere, based, respectively, on The Hague Rules of 1912 and the United States Negotiable Instruments Act of 1916.

A bill has been introduced in the Congress of Uruguay to incorporate into the Commercial Code the tentative Hague Rules of 1912 in regard to checks. The new Venezuelan Commercial Code of December 19, 1919, incorporated these rules. In the Congresses of Argentina and Nicaragua, measures have been introduced similar to the United States Bills of Lading Act. The Commission has also been glad to observe a growing interest in the adoption of uniform legislation on the subject of warehouse receipts, as well as on that of conditional sales. The Peruvian Congress has lately enacted a law on the former subject, substantially based on the Uniform Warehouse Receipts Act in the United States, and a similar step has been under discussion in Argentina, Paraguay, and Uruguay. Increased interest in conditional sales legislation has notably been shown in Argentina, Brazil and the United States.

During the war, constant efforts were made by the Inter-American High Commission, largely through the Central Executive Council, acting in coöperation with the various national sections, to relieve the burdens and inconveniences arising out of the conflict, as regards transportation and other matters. Of those efforts, no detail can now be given. It is necessary on the present occasion to limit the rehearsal of the Commission's activities chiefly to measures of a com-

prehensive and systematic nature, the development of which is still going on.

Among those measures one of the most important is that bringing into operation the convention adopted by the International American Conference at Buenos Aires, in 1910, for the protection of trade-marks. By this convention the American Republics were divided into two groups, the northern, embracing the United States, Costa Rica, Cuba, Dominican Republic, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, and Salvador; and the southern, embracing Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Paraguay, Peru, Uruguay, and Venezuela. Of the southern group, Rio de Janeiro was designated as the official center, and of the northern, Havana; and at each of these capitals there was to be established an international bureau for the registration of trade-marks, so as to secure their international protection in the Americas. This treaty, so closely related to the interests of the countries concerned and not least to those of the United States, had lain dormant and unratified. The Inter-American High Commission took it up and brought about its ratification by the requisite two-thirds of the northern group, all of whose members, except Mexico and Salvador, have now ratified it. As a result, the International Bureau of Havana is now open and in operation. It is hoped that a similar result may soon be attained in the southern group, where Bolivia, Brazil, Ecuador, Paraguay, and Uruguay have so far deposited their ratifications. Meanwhile, it would seem to be worth while to consider whether, pending the establishment of the Rio bureau, an arrangement might not be made whereby the members of the southern group, which have ratified the convention, may gain the benefits of international registration by accepting the services of the bureau at Havana.

Another measure that has been vigorously pressed is the convention to facilitate the operations of commercial travelers. In a number of the American countries local taxes, practically prohibitive in amount, on the operations of such travelers, have for many years existed. The Inter-American High Commission, at its meeting at Buenos Aires, adopted a resolution containing the basis of uniform regulations for commercial travelers and their samples. Taking this resolution as a starting-point, the Central Executive Council drafted an international convention, which, after examination and revision, was submitted by the Department of State to the American Governments,

looking (1) to the substitution for all local taxes of a single national fee; and (2) to the admission of samples, (a) without value, free of duty, and (b) with value, under bond for payment of duty on any not afterward withdrawn. This convention, which was first signed and ratified by the United States and Uruguay, has since been signed and ratified by Guatemala and Panama, and has been signed by five other countries—Salvador, Venezuela, Paraguay, Ecuador, and Nicaragua—whose ratifications are awaited. It is understood that several others are ready to sign the convention, while yet others are still considering it, some apparently with favor.

Another measure preferentially dealt with, because of its significance for the future as well as for the present, is the treaty for the establishment of an international gold clearance fund. This treaty has a twofold object. It is designed not only to assure the safety of deposited gold and to avoid the necessity of its shipment when difficulties in transportation exist, but also to facilitate and stabilize exchange through the adoption of an international unit of account. The plan was very carefully studied by the Inter-American High Commission at Buenos Aires; and subsequently, through the coöperation of the Central Executive Council with the Department of State, at Washington, it was incorporated in a draft of a treaty. This draft has so far been signed with the United States by Paraguay, Guatemala, Panama, and Haiti, but it has been approved in principle by at least six other Republics, some of which are now actively considering its adoption.

In order that the nature and object of this treaty may be understood, I will give a precise outline of its provisions. It is agreed that all deposits of gold, made in a bank designated for the purpose, in any of the signatory countries, for the payment of debts incurred in another such country in private commercial and financial transactions, shall be treated as an international trust fund, to be used for the sole purpose of effecting exchange, where, for one reason or another, the actual shipment of gold is to be avoided. To attain this end, the treaty provides the following machinery: Each signatory government is to designate a bank within its jurisdiction to hold any part of the fund there existing as joint custodian with such person or persons or such institution or institutions as the signatory governments may concur in appointing for the purpose. These joint custodians would hold the moneys so entrusted to them, as part of the

fund, subject to the order of the creditor or creditors for whom the fund is held. Obviously, as the number of signatory governments increased, so would the number of joint custodians. While the international scope of the fund would thus be enlarged, the interest in its security and administration would be correspondingly widened.

The details of the practical operations of the fund are to be regulated and determined between the designated banks. In order to facilitate such operations the signatory governments agree to take into consideration the ultimate adoption of a uniform exchange standard, permitting the interchangeability of their gold coins; and for this purpose they recommend the adoption of gold coins which shall be either a multiple or a simple fraction of a unit consisting of 0.33437 gram of gold 0.900 fine. This unit, which represents twenty cents, or one-fifth of a dollar, United States gold, has been popularly called the American franc. Irrespective, however, of the contemplated ultimate unification of standards of American gold coins, the plan, reduced to its simplest meaning, involves the creation of international safe-deposit boxes, where gold may be kept under the guardianship of several American governments, signatories of the treaty. The International Gold Clearance Fund Treaty by its terms covers only the American nations; but it contains a principle, the discussion of which has lately attracted wide attention and which may prove to be of incalculable value to the world in the future.

Nor should we overlook what has been accomplished in extending the practical acceptance of the principle of the arbitration of commercial disputes. In the program of the Inter-American High Commission this subject has occupied a prominent and permanent place. A substantial achievement was recorded, when, on April 10, 1916, a plan, agreed upon by the Chambers of Commerce of the United States and Buenos Aires, was formally put into effect. The results have been most gratifying; and agreements have since been made between the United States Chamber of Commerce and the national Chambers of Commerce of Uruguay, Ecuador, Panama and Guatemala. Similar agreements are in process of negotiation with the Chambers of Commerce of Honduras, Peru and Montevideo, and one with that of Asunción has just been signed. Much yet remains to be done to give legal certainty, stability and efficiency to the system. Especially is this the case in the United States, where the archaic rule permitting the disregard of arbitral clauses still pre-

vails. This rule should be superseded by legislation, similar to that which exists in most other countries, making commercial arbitration, under the supervision of the courts, an integral part of legal procedure. On this question I feel that I can add nothing to the argument so comprehensively and cogently presented in the recent volume on "Commercial Arbitration and the Law," by Mr. Julius Henry Cohen of the New York Bar.

The Central Executive Council has had in its work the active and hearty coöperation of various bodies, such as the American Bankers' Association, the Committee on Commercial Law of the Conference of Commissioners on Uniform State Laws, the United States Chamber of Commerce and the National Foreign Trade Council. It is gratifying to bear testimony to the aid and support thus rendered.

At the present hour, when we are accustomed to think in billions, unfortunately, I may say, of accumulated and accumulating debt rather than of accumulated and accumulating treasure, I trust that I shall not seem to sound a discordant note if I advert to the strict economy practiced by the Inter-American High Commission in its expenditures. So far as concerns the Treasury of the United States, the entire cost of the Commission, since it began its work in 1915, including the visit of the United States Section to Buenos Aires in 1916, represents an annual average hardly equal to the cost of two large public dinners; and when I speak of expenditures, I include not only salaries, but furniture and equipment, stationery and printing, the use of the telegraph and the telephone, and expert assistance in law and in languages. The smallness of the expenditure, which is out of all proportion to the work actually done, is to be ascribed not only to the voluntary services rendered by individuals and by public bodies, but also and in the main to the devotion of the permanent working force and the exceedingly moderate compensation which it receives.

The Second Pan-American Financial Conference met in Washington on Monday, January 19, 1920. Its formal business sessions ended on Friday, January 23d. There were, however, on the official program certain additional exercises, the last of which was a dinner given to the foreign official delegates by the Pan-American Society of the United States at the Waldorf-Astoria, in New York, on the

evening of Tuesday, January 27th. More than five hundred persons were present at this banquet.

All the American Republics were officially represented in the Conference, except Costa Rica, which had no delegate because the United States has not as yet recognized its existing government. At the head of the delegations from Argentina, Colombia, Haiti, Nicaragua, Paraguay, Peru, Salvador and Uruguay, were their Ministers of Finance. Guatemala's delegation was headed by her Minister of Foreign Affairs. A similar position in the delegations from Cuba, the Dominican Republic, Ecuador and Mexico, was occupied by their diplomatic representatives at Washington.

As in the first Conference, the work, with the exception of addresses, was performed by group committees and a committee on resolutions. The presiding officer was the Secretary of the Treasury of the United States, the heads of the various foreign delegations being vice-presidents. By a group committee is meant a committee assigned to a particular country. Each country had such a committee, consisting of its official delegates, usually three in number, and a group of citizens of the United States, usually to the number of fifteen or sixteen, and a secretary. The United States group, it may be observed, though an unofficial body, is designed to continue in existence, for consultative and other purposes.

The group committees were very active bodies, working incessantly and very earnestly, in order to prepare and to present to the Conference, within the brief space allowed, a comprehensive report on the financial, industrial and commercial situation in the respective countries, with recommendations as to what particular measures should be adopted to meet their various needs. All committee reports and all proposals were referred to the Committee on Resolutions, whose report was presented to the Conference on the morning of Friday, January 23d. With the adoption of this report, the formal sessions at Washington came to a close.

The report embraced eighteen resolutions, by the first of which, with a view more definitely to indicate its constituency and sphere of work, the title of what was previously called the International High Commission was changed to Inter-American High Commission. To this body the resolutions specifically referred, for study or for action, various matters concerning which it was not practicable for the Conference itself to make a definitive recommendation. These

included railway transportation, uniformity of bills of lading, postal facilities and cable, telegraph and wireless communication; uniformity and relative equality in laws and regulations governing the organization and treatment of foreign corporations; uniformity of laws on the subject of checks; the question of the best method of avoiding the simultaneous double taxation of individuals and corporations as between American countries, and that of the creation of an Inter-American tribunal for the adjustment of questions of a commercial or financial nature involving two or more American countries, and the determination of such questions by principles of law and equity. The Commission was also requested to continue its efforts to bring about the further adoption of the International Gold Clearance Fund Convention. The subject of maritime transportation was referred to the United States Shipping Board.

By another resolution the Conference recommended that where restrictions existed under the laws of States of the United States, which in effect prevented the operation of branches of foreign banks within their jurisdiction, such restrictions should be so modified as to permit the establishment of branches of banks of the Latin-American countries, under proper regulations, so as to insure equality of treatment. This resolution was prompted by the fact that United States banks, both National and State, have been permitted to establish branches in various Latin-American countries.

The Conference recommended the increased use of acceptances for the purpose of financing transactions involving the importation and exportation of goods, at the same time expressing the hope that the United States would open a constantly widening market for the long-term securities of American countries. It also recommended that the banking interests of the United States study the possibility of financial relief to Europe by repaying Latin-American obligations held in Europe by means of new loans granted in the United States to the respective Latin-American countries.

Yet other resolutions dealt with the subject of patents and copyrights, advising early and favorable action by all non-ratifying governments on the conventions adopted by the International American Conference at Buenos Aires in 1910; with the subject of trade-marks, urging the prompt ratification of the Buenos Aires convention of 1910 by all the governments that had not so far approved it, and suggesting that, pending the establishment of the International

Bureau at Rio de Janeiro, consideration be given to the use of the Havana Bureau by countries of the southern group that had ratified the convention; with the subject of weights and measures, recommending that the Metric System be universally employed, and that, pending the attainment of that end, articles weighed and marked, and shipping documents prepared, according to the system of weights and measures now prevailing in the United States, be accompanied with statements giving the equivalents under the Metric System; with the subject of a simultaneous census, recommending that such an one be taken in all the American countries at regular intervals, not exceeding ten years, in harmony with the system prevailing in the United States, and that uniformity should be observed in the preparation of statistical works; and with the arbitration of commercial disputes, advising that the plan put into effect between the Bolsa de Comercio of Buenos Aires and the Chamber of Commerce of the United States in 1916 be extended to all the American countries, and that legislation be adopted, wherever it is now lacking, for the purpose of incorporating the arbitral settlement of commercial disputes into the judicial system, to be carried out under the supervision of the courts.

The Conference, recognizing the value of the services of commercial attachés, strongly urged a substantial extension of the system, and declared that, in so doing, it intended "to express its sense of the importance of appropriate training, linguistic and otherwise, for all branches of the foreign service, as a means of developing and facilitating commercial and financial relations."

The Conference recommended that the Webb Law, which to a certain extent permits combinations in the export trade, be so amended as to permit American companies, importing or dealing in raw materials produced abroad, to form, under proper governmental regulation, organizations to enable such companies to compete on terms of equality with companies of other countries associated for the conduct of such business. At the same time the Conference resolved that it was in the interest of all nations that there should be the widest possible distribution of raw materials, and that the importation of such materials into any country should not be prevented by prohibitive duties.

The foregoing summary of the resolutions of the Conference suffices to indicate the character and scope of its work. Looking to the

future, it may be affirmed that work such as that in which the Pan-American Financial Conferences and their permanent organ, the Inter-American High Commission, are engaged, is of incalculable importance. The American Republics cover a vast area with an aggregate population of almost 200,000,000. They represent all varieties of soil, of climate and of resources. Not in any sordid sense, but in the sense of contribution to the comfort and convenience of all men, through sharing the benefits of what the earth produces, it may be said that the future lies with the Western Hemisphere, and that its development has just begun.

# THE DECLARATION OF PARIS

By Charles H. Stockton

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The Declaration of Paris of 1856 reads as follows:

(1) Privateering is and remains abolished.
(2) The neutral flag covers enemy goods with the exception of contraband of war.
(3) Neutral goods, with the exception of contraband of war, are not liable to capture under an enemy's flag.
(4) Blockades, in order to be binding, must be effective, that is to say, maintained by a force sufficient to prevent access to the coasts of an enemy.

This declaration was directly and indirectly caused by the Crimean War, beginning in 1854 and ending in 1856, which war was a result of the war between Turkey and Russia, which began in October, 1853.

The ostensible cause of this latter war was a dispute which had arisen upon the custody of the Holy Places in Jerusalem. The real cause was the intention of Russia to begin the dismemberment of the Turkish Empire in Europe. The Czar of Russia suggested in January, 1853, to the British Ambassador at St. Petersburg that England might receive Egypt and Crete as her portion of the proposed result. France and England were ready, however, for various reasons, to come to the assistance of Turkey, while Count Cavour, in order to increase the prestige and political position of Sardinia, was desirous of joining the Anglo-French Alliance.

Before the war actually occurred, during the time of its foreshadowment, the commercial neutrals in Europe, then mainly the Scandinavian Powers, began to initiate movements for protecting and fostering the lucrative trade afloat which follows in the train of war and from which they had benefited in the past. On January 2, 1854, Sweden, then united with Norway, and Denmark addressed identical dispatches to the actual and possible belligerents. Their dispatches announced in case of war, the steadfast adherence on the part of

these Powers to "a strict neutrality founded in good faith, impartially, and an equal respect for the rights of all the Powers" which would in time impose on the Kings of Sweden and Denmark certain obligations. These were to abstain from participation in the war, direct or indirect; to admit to their ports the vesels of war and merchantmen of the belligerents under certain restrictions; to absolutely refuse admittance to privateers; to accord to belligerent vessels facilities for the supply of stores not contraband of war; to exclude prizes from their ports except in cases of distress. On the other hand, the advantages they claimed were to enjoy in their commercial relations with the countries at war all securities and all facilities for their vessels, as well as for their cargoes, with the obligation at all times for such vessels to conform to the regulations generally established and recognized for special cases of declared and effective blockades. The dispatches concluded with the statement that "Such are the general principles of the neutrality adopted by His Majesty the King in the event of war breaking out in Europe. His Majesty the King flatters himself that they will be acknowledged as in conformity with the Law of Nations."

These declarations of neutrality were notified by Denmark to the United States of America on January 20, 1854, and by Sweden on January 28, as well as to the other neutral Powers. Secretary Marcy, then Secretary of State of the United States, replied in both cases on the 14th of February, that the views expressed by the two governments were regarded by the President "with all the interest which the occasion demands." The Danish *Chargé* at Washington was further notified that the United States felt "deep solicitude in the events now transpiring in Europe, not only on account of the general anxiety they occasion to those Powers more nearly exposed to the menaced evils, but also as having a most important ulterior bearing upon the United States."

In the meantime, the Czar of Russia had been endeavoring to obtain the consent of the United States to the issue of Russian letters of marque to citizens of the United States. Reports to Europe from America tended to show that public opinion in the United States was favorable to the allies, but the question of service of Americans in Russian privateers presented difficulties. So far as I have examined the matter, I cannot find that any Americans accepted letters of marque from Russia which would have been, under our neutrality

laws of the time, unlawful. Considering the naval predominance of the allies in this war, such undertakings would have been dangerous and unprofitable.

The Scandinavian countries were, in accordance with their historic position, in favor of the freedom from capture of enemy goods in neutral ships. This had also been the historic position of France, but not of England. For the proper exercise of her sea power England had always maintained the right to seize enemy goods not contraband on neutral vessels, as she considered the destruction or the crippling of an enemy's commerce and her trade, however carried on, as a legitimate and proper objective in maritime war.

However, it was an evident necessity in the war against Russia about to be entered into by France and England as allies, that some common ground should be agreed upon by the fleets of both countries and that similar instructions should be issued to the naval officers in command of both fleets. France held to her traditional policy, the policy of Napoleon in the wars which bear his name, and which represented a life and death struggle with England. There was, however, a party in England who wished to make war softer afloat, and to lessen its burdens upon commerce. It consisted principally of the disciples of the Manchester School of the day. As a result, after much dilly-dallying, it was agreed to issue instructions to the navies of both Powers, to allow enemy goods upon neutral ships to go free from capture. This at the end of the war resulted in the adoption of the Declaration of Paris. Of this Sir Francis Piggott, a recent writer upon the subject, says:

> The Declaration of Paris was the product of temperament. The grave problems which it professed to settle were not argued on their merits in the open; the two sides of the question were never discussed; the conclusions were come to in secret.

In the discussion between the French and English foreign offices, considerable reference was made to the general attitude of neutrals, especially the Scandinavian Powers and the United States of America. As a matter of fact, Sweden and Russia, after the League of 1780 had been dissolved, had practically abandoned the doctrine of free ships, free goods. The United States, though in the main favoring that doctrine, had at times in both its political and judicial departments acted otherwise. In the Jay Treaty with England in 1796 the

doctrine of seizing enemy property on neutral ships had been expressly recognized. In the letter of Jefferson to Mr. Genet of the 24th of July, 1793, he says:

> The French complain that the English take French goods out of American vessels, which is said to be against the law of nations, and ought to be prevented by us. On the contrary, we supposed it to have been long ago an established principle of the law of nations, that the goods of a friend are free in an enemy's vessel, and an enemy's goods lawful prize in the vessel of a friend.

The trade between Russia and Great Britain before the declaration of war between the two countries was ten times greater than the trade with Russia and any other country. Piggott says of this:

> The trade consisted principally of flax and tallow: Ireland received large quantities of flaxseed for her linen industry. It was said authoritatively that as a result of the custom of cash payments, the Russian interest in consignments did not exceed 15 per cent. What the proper designation of such trade is, whether enemy or British and how it should be dealt with in war, were serious questions which would inevitably have to be faced by the (British) Government. Russia had assured the merchants of her protection. It is not surprising, therefore, that they should inquire, so soon as war was seen to be inevitable, what protection they would receive from their own country.

The law officers of the Cabinet were duly consulted, and gave it as their opinion that persons resident and trading in an enemy country are treated as enemies, and their property is liable to seizure on the sea, even on board of a neutral vessel, "whether such persons be by birth neutrals, allies, enemies or fellow-subjects." This was the law of war, but it was not in accord with the proposed policy of the allies. It was conveyed in a note to the British Consul at Riga and was known as the Riga Dispatch.

Finally, policy became paramount and the laws of war upon the question of the carrying trade during the war that was imminent were set aside in the Declaration to the Neutrals by the Queen, issued March 28, 1854, which was followed immediately by the declaration of war. In this declaration are found the following paragraphs:

> To preserve the commerce of neutrals from all unnecessary destruction Her Majesty is willing, for the present, to waive a part of the belligerent rights appertaining to her by the Law of Nations. . . .

But Her Majesty will waive the right of seizing enemy's property laden on board a neutral vessel, unless it be contraband of war.

This settled the question of the Baltic trade by English and other merchants. As a result, with the aid of Prussia the English blockade of the Baltic was nullified. Between Prussia and Russia a perfect system of transit of goods from Russia through Prussia to England was arranged. Russia is said to have developed her interior communications to a degree of perfection for those days that was hardly anticipated. This was by means of most excellent roads to the Prussian frontiers. Prussia abolished her land import duties and constructed a railway to Memel, just across the frontier. The result was that vast stores of Russian produce, such as tallow, hemp, flax and linseed went to the Prussian ports whence they were shipped on board neutral vessels to England. In this manner the blockade of the Baltic ports of Russia was neutralized and the fundamental principles on which (as has been so often proven) the effective waging of war depends, was set aside. The doctrines of continuous voyages and ultimate consumption, so drastic in their results in modern times, were set aside and it was, in fact, a practical example of that anomaly "a military war and a commercial peace."

All of this shows the close connection of the merchant marine with the successful or unsuccessful prosecution of war. It is so closely allied with success that it becomes one of the tools of war and war trade and hence beyond the rigid limits of private enterprise and control. Neither in the dangers that surround it that are inherent especially to modern wars, nor in the value of its essential services rendered in matters of transport of food, munitions, supplies and armed forces, should it fail in the recognition, protection and reward from the governments of the countries whose flag it carries.

It has been well said by an English writer that Great Britain "now realizes that the merchant marine is but a branch of the Royal Navy. From this point of view the ship-owner and the interests of shareholders stand in more favorable positions than the proprietor of any other means of transport or than the owner of the goods transported." It is hardly necessary to add that the term "private property at sea" no longer applies to the merchant marine in respect to its capture than does the seizure of railroads on shore; neither are or should be exempt from capture, seizure and use in time of war. The prevention

of the transport of munitions or food, whether considered as contraband or as a contribution to the common stock of a country, has more than once had a vital effect during the late war. Above all, it has been shown by recent experiences that the supreme control of the mercantile marine must in all its movements and direction rest with the nation and its general government.

The hostilities of the Crimean War having been brought to a close, the Congress of Paris was convened on the 28th of February, 1856, to settle upon a general treaty of peace, which was finally signed on the 30th of the following March.

The signers of the treaty of peace were reunited in conference on the 16th of the following April and agreed to the Declaration of Paris as it now stands, inviting the adherence of all other Powers and making the Declaration applicable in its workings to only those Powers who sign or who should in future days accede to the Declaration.

The signers of the Declaration and of the protocol of the meeting of the conference in which it was adopted were Austria, France, Great Britain, Prussia, Russia, Sardinia and Turkey.

In the proposition of Count Walewski, the president of the conference, in recognition of the common interest and desirability of the maintenance of the indivisibility of the four principles of the Declaration, it was agreed "that the countries which have signed the Declaration or may adhere to it, cannot in justice enter into any arrangement relating to the rights of neutrals in time of war which is not based upon the four principles of the Declaration. This resolution, however, was not to have any retroactive effect nor to invalidate existing conventions."

The matter of the Declaration of Paris does not seem to have been brought before the House of Commons of Great Britain, but it was the subject of a debate in the House of Lords and many speeches were made against the adoption of the Declaration, because in its surrender of the right to seize goods of the enemy, not contraband, on the ships of a neutral state. No vote apparently was taken upon the subject, and the Declaration with its important principles was accepted by Great Britain without, so far as I know, any formal qualification or confirmation.

The countries not represented at the Congress of Paris were duly notified and invited to adhere, and a large number of them accepted in the three following months. Owing to the conditions of adherence,

that all of the four principles must be accepted as one and indivisible, four states stood out, the United States, Spain, Mexico and Venezuela, all on the matter of the abolition of privateering. Spain finally adhered on the 18th of January, 1908, and Mexico on the 13th of February, 1909. The United States and, I think, Venezuela still hold out. As a consequence, notwithstanding that the United States offered at one time to adhere, an offer which will be discussed farther on, the Declaration of Paris cannot be considered as accepted international law.

There was but one point, that of privateering, on which the United States declined to adhere but consented to do so, provided the amendment proposed by Mr. Marcy, to couple this abolition with the abolition of the right of capture of private property at sea in time of war was accepted by all the Powers. It is extremely doubtful whether the United States could legally adhere without the consent of the Senate.

The United States formulated its declination to a convention upon the subject in the way required for treaties, in a long answer signed by the new Secretary of State, Mr. William L. Marcy. As to this answer, says Sir Francis Piggott, "It may be divided roughly into two parts: that in which it sets out very clearly and remorselessly all the weak points of the Declaration; and that which is devoted to the advocacy of privateering, and the humanity of private property at sea."

The second and third principles of the Declaration had become a policy urged by the United States for years, a policy not always followed, as I have mentioned elsewhere, either in treaties or judicial decisions.

As to the fourth principle in regard to blockades, Secretary Marcy said that this principle "can hardly be regarded as one falling within that class with which it was the object of the Congress to interfere, for this rule has not for a long time been regarded as uncertain, or the cause of any deplorable disputes. If there have been any disputes in regard to blockades, the uncertainty was about the facts, but not the law. . . ." What is to be judged "a force sufficient really to prevent access to the coast of the enemy has often been a severely contested question; and certainly the Declaration which merely reiterates the general undisputed maxim of maritime law, does nothing toward relieving the subject of blockades from that embarrassment. What force is requisite to constitute an effective blockade remains as

unsettled and as questionable as it was before the Congress at Paris adopted the Declaration." This note, the second on the subject by Secretary Marcy, is quite long and will be found in Piggott's treatises, Moore's Digest, etc. Its arguments in favor of privateering and the immunity of private property and vessels of an enemy from capture, has, however, lost much of its force by the conditions of latter day maritime warfare.

It remained for the London Naval Conference in 1907-1908 in the first chapter of its Declaration to discuss and define the question of blockade in a proper and at the same time exhaustive manner. A strong and growing party in England, in view of the experience of the later wars and of the future possibilities of maritime war, advocates a withdrawal from a continued adherence to the Declaration of Paris. It has been urged that such a withdrawal is legitimate and proper at any time, as it is an agreement without the form or qualifications of a treaty, and that such a withdrawal may be feasible and desirable.

The conditions of modern warfare, as shown by the late World War, have extended the use of materials that are now classed as contraband, to such an extent, that the articles that are not directly or indirectly of contraband nature (articles that formed what was called the free list), make but a meager collection with an uncertain future. This robs the dictum of free ships, free goods, of much force, and to this is added the plainly recognized difficulty of examining merchant vessels in the open seas. This difficulty is plain, not only arising from stormy weather and high seas in the examination of small vessels with simple cargoes, but presents in the case of large vessels with their great and complex cargoes almost insurmountable difficulties, added to by the existence or growth of the parcel posts of mail vessels, when we consider what may arise from the exposure to both aërial and submarine warfare, the former of which is sure to develop in the future, and the continued existence of the latter in future warfare always a possibility until the arrival of the much-to-be-desired millennium when human passions and practices will pass away for the good of mankind.

It may be interesting now to follow the action of the United States since the Marcy note written in answer to the proposal for adherence made by the European Powers signatory to the Declaration of Paris.

There was no general or concerted reply to the Marcy note or its proposed amendment to the Declaration. The French Government made no objection at the time to the proposed amendment. Russia favored it; Prussia, Italy, and the Netherlands were supposed to be friendly to it, while Great Britain was, it is understood, directly opposed to it.

Before any negotiations, however, as to the Marcy amendment had gotten under way, President Pierce, in whose administration Marcy was Secretary of State, was succeeded in 1857 by President Buchanan, who had been Minister to England during the negotiations between England and France on the subject, and who was to an extent familiar with the arrangements concerning the maritime warfare proposed to be conducted by France and England during the Crimean War. Mr. Buchanan after his accession directed the negotiations to be suspended until he could examine all of the questions involved. This suspension of the negotiations concerning the Declaration of Paris with the United States continued during the entire administration of Buchanan (see Moore's "Buchanan").

Upon his assumption of office, President Lincoln found the matter in this unsettled state. In agreement with the members of his Cabinet, Mr. Lincoln was desirous of placing the loyal States and his government in the most favorable and conciliatory light to European states and to their interests afloat during the war for the Union. Secretary Seward wrote to Mr. Dayton, then Minister to France:

> The United States have never disclaimed the employment of letters of marque as a means of maritime war. The insurgents early announced their intention to commission privateers. We knew that friendly nations would be anxious for guarantees of safety from injury by that form of depredation upon the national commerce. We knew also that such nations would desire to be informed whether their flags should be regarded as protecting goods not contraband of war, of disloyal citizens found under them, and whether the goods, not contraband, of subjects of such nations would be safe from confiscation when found in vessels of disloyal citizens of the United States.

Seward did not regard the abandonment of privateering as a matter of importance to the United States, and the maritime history of our country since his time has proved that he was right. We could not secure any great matter by barter with his renunciation as a con-

tribution of value, but he also, as Mr. Henry Adams says, "believed that the Union was vitally interested in precluding every excuse for interference in Europe."

It will be recalled that in 1856 England and France pledged themselves to enter into no arrangement with each other or any third Power, unless it started from the four articles of the Declaration as a whole and indivisible.

The offer of the United States to adhere to the Declaration of Paris naturally attracted the attention of the maritime European Powers. Lord John Russell, the Minister of Foreign Affairs of Great Britain, suggested to the Emperor Napoleon that both belligerents, North and South, should be invited "to act upon the principles laid down in the second and third articles of the Declaration of Paris of 1856, which relates to the security of neutral property on the high seas."

The French Government responded favorably to this proposition of the British Government, and Mr. Thouvenel, the French Foreign Minister, suggested that a friendly communication should be made to both governments in the same language, "that the Governments of Great Britain and France intended to abstain from all interferences, but that the commercial interests of the two countries demanded that they should be assured that the principles with respect to neutral property laid down by the Congress of Paris (of 1856) should be adhered to—an assurance which the two governments did not doubt they should obtain, as the principles in question were in strict accordance with those that had been always advocated by the United States."

The diplomatic conversation that arose in this matter made a lasting impression on the mind of Mr. Charles Francis Adams, then Minister to Great Britain, to such an extent, says his son, Mr. Henry Adams, his private secretary, that it shook his mind, not only as to the friendliness of the British Government, but also as to the honesty or straightforwardness of its ministers with whom he dealt. "Palmerston and Russell were the chief agents in the affair, and their wishes to prevent the United States from acceding to the Declaration as a whole was," Henry Adams says, "the cause of the whole difficulty in the negotiations on the subject." The mystery that neither Seward nor Adams could penetrate was the motive that actuated the British Cabinet.

The matter was complicated by the fact that Mr. Charles Francis Adams did not propose a single adherence to the Declaration of Paris

which could not have been refused by the Powers concerned and could have been made by a formal note from the Executive Department of our Government. He wisely and I think necessarily asked for a convention, because the Senate of the United States should have some instrument to act upon and ratify in order to make the Declaration legal so far as the United States was concerned with it in municipal law.

Mr. Henry Adams deduced from the action of the British Government then existing, that they proposed in case of the permanent division of the United States, to revive their old claims, which were put aside by the Declaration of Paris, for belligerent rights as to enemy goods in neutral vessels, a right which Lord Palmerston had stated in the House of Commons on the night of March 18, 1862, had been abandoned because a persistence in 1854 would have added a war with the United States to the war they were then waging with Russia. Lord John Russell was also one of the objectors to the Declaration of Paris at the time of its adoption.

As the British Government had recognized the Southern States as a belligerent, Great Britain was not obliged to consider her privateers as pirates, unless the Confederate Government had accepted the Declaration of Paris as a whole, including the first proviso, and then had violated its requirements. Whatever attitude the United States assumed toward the Southern cruisers and privateers, was based upon other grounds than that of the mandates of the Declaration of Paris, and hence there was an intentional or unintentional misinterpretation of their motives, and France and England refused to accept an adherence that would be considered applicable to the existing war.

Lord Lyons, in a dispatch to the home government, said that he doubted whether the Senate of the United States would approve of a convention at that time abolishing the right of privateering by the United States.

The statement, made by English writers that the intention of the United States in proposing the adoption by them of the Declaration of Paris, which was met by the Anglo-French proposition to adhere only to the second and third rules of the Declaration, was for the purpose of preventing the recognition of the South as belligerents, falls to the ground chronologically, as they accepted the recognition by Great Britain of the Southern Confederacy as belligerents as a

fact before the conclusion of the negotiations. The two points of the Declaration presented were already a part of the policy of the United States and were not properly presented under the requirements of the protocol of the Congress of Paris, which required the four rules to be presented as an indivisible body.

Although Great Britain and France did not recognize the independence of the Southern Confederacy, they considered it desirable to obtain from it officially a recognition of the second and third articles of the Declaration. This was accomplished by an interview with Mr. Jefferson Davis, as President of the Confederate States, by Mr. Burch, British Consul at Charleston, accompanied by M. Bettigny, the French Consul. As a result of this interview, Consul Burch reported that "It was soon determined that Congress should be invited to issue a series of resolutions, by which the second, third and fourth articles of the Declaration of the Treaty of Paris should be accepted by the Confederate States." These resolutions were preceded by a first resolution which read as follows: "That we maintain the right of privateering as it has been long established by the practice and recognized by the Law of Nations." The other three articles followed in accordance with the terms of the Declaration of Paris. The resolutions were passed on the 13th of August, 1861, and approved by Mr. Davis on the same day.

It might be added here that the convention, formally proposed by Mr. Adams to Lord John Russell after the recognition of the Southern Confederacy as a belligerent Power, contained no reference to any action toward Confederate privateers. The preamble or declaration proposed by Lord John Russell, to which consideration was refused very properly by Secretary Seward as a matter of national self-respect, read as follows:

> In affixing his signature to the Convention of this Day between Her Majesty, the Queen of Great Britain and Ireland, and the United States of America, the Earl Russell declares, by order of Her Majesty, that Her Majesty does not intend thereby to undertake any engagement which shall have any bearing direct or indirect on the internal differences now prevailing in the United States.

In the Spanish-American War the United States followed the principles of the three last articles of the Declaration of Paris by official notification.

During the great World War in the code of maritime warfare promulgated by the United States Navy Department, the second and third articles of the Declaration of Paris were literally included, while the fourth article was in principle also incorporated.

# INTERNATIONAL AERIAL NAVIGATION AND THE PEACE CONFERENCE

By Arthur K. Kuhn

*Counsel to the Peace Conference Committee of the League to Enforce Peace*

Aërial navigation, owing to the unusual impetus given to it by the Great War, now promises to result in one of the most profound influences affecting the conditions of modern civilization. It is difficult to realize that only twenty years have elapsed since the program of the First Hague Conference proposed "to prohibit the throwing of projectiles or explosives of any kind from balloons, or by any similar means"; and that one of the express causes inducing the nations of the world to agree to the proposal was the undeveloped character of the art of aviation.[1] Although the treaty was short-lived and expired in 1905, the art had so greatly advanced that a complete change of the attitude of many governments had taken place and the renewal of the treaty was out of the question.

The opening of the war inaugurated a feverish competition to perfect every possible type of aircraft for use in attack as well as for reconnaissance. The stern demands of military tactics introduced an entirely new phase in the development of aërial navigation.[2]

[1] Report of Captain Crozier to the United States Commission of the First Hague Conference. Holls, The Peace Conference at the Hague, p. 95. The reasoning of the subcommittee correctly anticipated by almost two decades some of the occurrences of the war. Captain Crozier reported that the action taken for humanitarian reasons was founded upon the opinion that balloons and other aircraft, as they then existed, constituted such inaccurate means of injury that their use would be dangerous to noncombatants; that "the persons or objects injured by throwing explosives may be entirely disconnected from the conflict, and such that their injury or destruction would be of no practical advantage to the party making use of the machines."

[2] "Ten times as many years would not have produced the same advance if the years had been devoted to peaceful pursuits and commercial uses of airplanes had been the only incentive to inventors and producers." Secretary of War Baker in the Introduction to Captain Arthur Sweetser's The American Air Service.

So long as war is possible, aircraft will continue to be developed as instruments of war, especially in connection with radiotelegraphy, radiotelephony, photography and other correlated scientific means. Fortunately the arts developed in war are quickly adapted and applied to the demands of peace; and of this truth, aërial navigation furnishes an excellent example. The year following the armistice witnessed many remarkable achievements in air navigation, demonstrating its future commercial value as a new means of intercommunication and transportation. The crossing of the Atlantic Ocean from the mainland of the United States to England, via the Azores and the European Continent, was closely followed by a continuous flight from Newfoundland to Ireland in about fifteen hours. The distance between New York and San Francisco and return was traversed in slightly more than forty-eight hours. The use of aircraft for the regular transportation of mails and passengers increases day by day both here and abroad. An art thus expanding by leaps and bounds requires a wise system of legal regulation and control, both in its own interest and for the safety of the community. Aërial navigation, like the navigation of the seas, is international in scope, and its adequate regulation by law presupposes the coöperation of nations through international conventions. This has long been recognized both by scientific experts and by jurists.[3] It was also accepted as a basic principle by the official International Conference upon Aërial Navigation held in Paris upon the call of the French Government in May, June and November, 1910,[4] and also by the unofficial Conference for the Regulation of Aërial Locomotion held at Verona in June, 1910.[5]

If the war had not intervened, the French Government would have convened another diplomatic conference to elaborate a code of international air law, or at least to establish a *modus vivendi* for international flying. The Conference of 1910 adjourned without finally approving a draft, though several drafts by Fauchille, Bar and others were discussed and referred for further deliberation. When the Peace Conference convened, in January, 1919, it appointed, among its many other subcommittees, a Commission on International Air Navigation

[3] Pesce in *Journal de droit international privé*, 1911, p. 115; Catellani, *Le droit aérien*, pp. 33-44 (translated by Bouteloup from the Italian).

[4] *Journal de droit international privé*, 1911, p. 986.

[5] De Valles in *Revue juridique internationale de la locomotion aërienne*, 1910, p. 175.

upon which representation was given to each of the five Great Powers, together with Belgium, Brazil, Cuba, Greece, Portugal, Roumania and Serbia.

### THE CONVENTION RESTRICTED TO TIME OF PEACE

It is worthy of emphasis that diplomatic congresses held in times of peace often deal with the conduct of warfare, while conferences held at the close of a great war usually do not. The Congress of Vienna in 1815 and the Berlin Congress of 1878 dealt principally with political and territorial readjustments, while the Brussels Conference of 1874 and the Hague Conferences of 1899 and 1907 attempted to regulate the conduct of war. None of the many activities of the Peace Conference of 1919 was directed toward the regulation of warfare, or even of neutral rights in time of war. Perhaps three main causes may be assigned. First, because the gross violations of the laws of war by the Central Powers undermined confidence in the old system by which the nations consciously endeavored through self-denying ordinances to make the conduct of war more humane. Second, because the tremendous task of making the necessary territorial, economic and political readjustments absorbed the attention of the Conference. Third, because the Conference endeavored to establish international relations upon a new basis, with the object of eliminating, as far as possible, the causes of war.

The Commission on Air Navigation was one of a number of commissions created under the authority of the Peace Conference having nothing whatever to do with the adjustments of the war itself. Its labors, so far as they were connected with the work of the Peace Conference, consisted of the regulation of the new means of intercourse between nations in such a manner as to promote friendly relations and to avoid friction. The Convention relating to International Air Navigation [6] is reported to have been signed on October 13, 1919, by all the Allied and Associated Powers, excepting Japan and the United States.[7] The convention is restricted wholly to peace times and does not affect the freedom of action of the contracting states in time of war, either as belligerents or as neutrals.[8]

[6] U. S. Senate Document No. 91, 66th Congress, 1st Session (French and English texts).

[7] See the London *Times*, October 16, 1919.

[8] Convention, Art. 39.

### SOVEREIGNTY IN THE AIRSPACE

The convention recognizes that every state has complete and exclusive sovereignty in the airspace above its territory and territorial waters.[9] But each state undertakes in time of peace to accord freedom of innocent passage to foreign aircraft without distinction as to nationality, provided the conditions of the convention are observed.[10] The convention thus sanctions the principle championed by Westlake at the 1906 session of the Institute, although at that time he could muster only three votes in support of his proposition. A large majority of the Institute were then in favor of a general declaration for the freedom of the airspace.[11] The attitude of English and American jurists and the practical developments of the war have now finally solved this *quæstio famosissima* in a manner which will probably be satisfactory to all. Any nation has the right to map out areas prohibited for military reasons or for public safety, but notice of such areas must be given to the central bureau and published. The fact that prohibited areas must apply alike to domestic as well as to foreign aircraft will serve as a counterbalance to any extreme view of military needs. The right of innocent passage is therefore practically assured.[12]

### NATIONALITY OF AIRCRAFT

The convention determines the nationality of aircraft according to rules similar to those established for seagoing vessels. The aircraft possesses the nationality of the state on the registry of which it is entered. The owner must be a national; if the owner is a corporation, the president and two-thirds of the board of directors must be nationals.[13] It therefore follows that aircraft cannot be validly registered in more than one country at the same time.

[9] Convention, Art. 1.

[10] *Ibid.*, Art. 2.

[11] See *Annuaire de l'Institut du droit international*, 1906, p. 305.

[12] The legal status thus created may be compared to the right of vessels of one state freely to navigate an international river flowing from or through its own territory into a foreign state. Jefferson, while Secretary of State, relied upon this right in his negotiations with France, basing it upon "the law of nature and nations." Moore, Digest of International Law, Vol. 1, p. 624. The present writer suggested it as an analogy for international rights in the airspace, as early as 1908. Proceedings, American Political Science Association, 1908, p. 87; this JOURNAL, 1910, p. 114, "The Beginnings of an Aërial Law."

[13] Convention, Arts. 6-7. This was not the rule in the draft proposed by Paul

No nation may permit the flight above its territory of aircraft not possessing the nationality of one of the contracting states.[14] This marks an important variance from the rule of maritime shipping because vessels of all duly recognized countries are permitted to enter the territorial waters of other nations. The reason of the rule for aircraft is not to be sought in any intent to exercise indirect coercion upon states which have not yet ratified the convention, but in the fact that the right of free passage depends upon the strict observance of the conditions of the convention and upon the control which such observance affords. If the United States does not sign and ratify the convention, it would follow that our aircraft would be excluded from the territory of all the contracting states including Canada.

### CERTIFICATES AND LICENSES

The issuance of certificates of airworthiness and the competence of officers and crew are matters within the jurisdiction of the contracting states so long as they observe the technical minimum standards set forth in the annexes. A permanent International Commission for Air Navigation is established which may vary these standards from time to time.[15] Certificates which are issued or rendered valid by the state of the aircraft's flag must be recognized in all other states. It is therefore difficult to comprehend why a state should have the right to refuse such recognition to certificates and licenses granted in a foreign state to a citizen of the local state residing abroad. If a state is willing to concede recognition to certificates and licenses granted in other states, why should it not have sufficient confidence in its own nationals to permit them to make flights over their home territory after having conformed to the same standards? The discrimination seems unreasonable in view of the fact that the standard is intended to be technically uniform in all states. It is difficult to explain the rule except in the light of the jurisprudence of European countries where the *lex patriæ* exerts an influence in regulating the acts of nationals abroad, to an extent unknown to the English com-

Fauchille at the Paris Conference of 1910. Ownership was to control nationality, but aircraft might be registered in the country in which the owner resided. Fauchille's Draft, Art. 3, *Journal de droit international privé*, 1911, p. 990.

[14] Convention, Art. 5.

[15] *Ibid.*, Arts. 11-13; Annexes B and E.

mon law. Personal capacity in those countries is measured by national law; and yet there can be no question of the evasion of that law here, because of the uniformity of the standard.

The annexes also provide in detail for the marks and numbers which aircraft must carry, also the lights and signals, rules of airway and markings of aërodromes. Great care seems to have been exercised in the preparation of these rules; they give evidence of having been arrived at empirically by men practiced in the art.

The adoption of the convention by the United States would seem to require that all State legislation be superseded. The Connecticut statute of 1911, for example, provides that no airship shall be flown through or to any point in the State, unless registered within the State, such registration to be renewed annually. The licensing of operators is similarly placed upon a local basis. The flying privilege of a non-resident of Connecticut, even though qualified by the laws of his residence, is limited to ten days in any one year.[16] It is curious to note that in the revision of 1918, the law is classified under the general heading of "Navigation," yet according to its tenor, aircraft are dealt with as though they were like automobiles traveling upon State routes and wholly subject to local law. Connecticut is entitled to the credit of having passed the first general law in the United States to regulate aërial navigation, doubtless through the efforts of its distinguished Governor, Simeon E. Baldwin, who himself showed deep interest in the early stages of the law of aërial navigation.[17] But the tremendous progress which aviation has made since that time and the achievement which it promises for the future have already rendered such legislation out of date. The speed at which aircraft can and must go, the free choice of route which they have, and the distances they now traverse without landing, all tend to destroy any analogy which may have existed with vehicles traveling upon the land.

### NATIONAL LEGISLATION REQUIRED

Congress must deal adequately with the entire subject of air navigation in the event that the present convention is ratified and its terms made effective within the United States. Consider, for example, the provision permitting aircraft to cross the territory of another con-

[16] Connecticut Laws of 1911, Chap. 861; Revision of 1918, sec. 3115.

[17] See his able article in this JOURNAL, 1910, p. 95.

tracting state without alighting, provided the international routes be followed and no signal be given to alight.[18] Unless local law were superseded by federal regulation, there would be endless confusion caused by the local aërial police. The observance of the treaty in all its parts would be most difficult. So in regard to "ship's papers"; the annexes provide the details to be embodied in documents which aircraft must carry, which include the following:

(a) certificates of registration;
(b) certificate of airworthiness;
(c) certificate of minimum technical skill for commanding officer and pilot;
(d) licenses for pilots, navigators and engineers;
(e) list of passengers;
(f) bill of lading and manifest;
(g) log book;
(h) special license for wireless equipment.[19]

These requirements presuppose some coördination between the local and the national authorities, which federal regulation can alone provide.

Federal legislation will also be necessary to establish a policy relative to the restriction of the internal traffic to national aircraft. The convention does not *eo ipso* maintain such a policy, but leaves each state free to do so, evidently taking into account the legislation of many countries relating to coastwise maritime trade. Where the laws exclude foreign aircraft from the carriage of passengers or freight for hire between local points, aircraft of that state may be subjected to the same restrictions by a foreign state, even though the foreign state does not itself maintain the rule.[20]

### PATENT RIGHTS IN AIRCRAFT MECHANISMS

A provision which seems to have raised considerable opposition in this country is that which guarantees immunity to any foreign aircraft from seizure or detention while within the airspace or upon the territory of another state "on the ground that the construction or mechanism of the aircraft is an infringement of any patent, design,

[18] Convention, Art. 15 and Annex D.
[19] *Ibid.*, Art. 19 and Annexes A, B, C, and E.
[20] *Ibid.*, Arts. 16-17.

or model, duly granted or registered in such state."[21] This provision relegates all claims for infringement to the jurisdiction of origin. The purpose was clearly to remove unnecessary burdens upon aviation while still in its infancy. The claims for broad or basic patent rights are apt to be much more numerous in a new art than in one the principles of which have long been known and applied. Perhaps it was feared that the seizures or detentions might be so widespread as actually to interrupt the free development of aërial navigation. We do not know of any similar exemptions anywhere in favor of maritime commerce, nor is it apparent why, on principle, there should be greater leniency shown to the infringer of a patent for the design or construction of aircraft than to one who infringes a patent of another description. Presumably local procedure will guarantee the good faith of the action by requiring security in the event of seizure or detention; likewise, rebonding will ordinarily be provided for just as for libels in admiralty. If the Commission desired to insure against abuse of process causing discouragement of international air navigation, the condition of security might well have been exacted by the convention itself. If the owner of an aircraft desires to enter the jurisdiction of a foreign state, he should be willing to take the burden of its just laws. Many an owner of a patent right might hesitate in good faith before incurring the expense and inconvenience of testing his right against an alleged infringer in a foreign country, but if aircraft containing the protected mechanism enters the legitimate field of exploitation of the holder of the patent, the latter should be permitted to test or exercise his rights in his own jurisdiction.

### PRIVATE INTERNATIONAL LAW

It is somewhat surprising to find under the title: "Rules to be observed on departure, on landing, and when under way," a number of provisions not applicable primarily to the control of navigation, but rather to the choice of law competent to punish infractions and to determine private rights between persons traveling upon aircraft. Thus Article 23 provides: "The legal relations between persons on board an aircraft in flight are governed by the law of the nationality of the aircraft." This rule will seem strange to lawyers unfamiliar with the principles of private international law in European countries.

[21] Convention, Art. 18.

The French text is somewhat clearer than the English as it refers to transactions "*qui se forment . . . à bord,*" thus limiting the rule to legal relations actually entered into on board an aircraft in flight. But even with this limitation, the rule operates in derogation of the established principles of private law. The same may be said of other provisions of Article 23 by which a state is deprived of jurisdiction to punish a crime or misdemeanor committed on board an aircraft in flight over its territory "except where such crime or misdemeanor is committed against a national of such state and is followed by a landing there during the same journey." On the other hand, each state undertakes to punish its own nationals for any violations of the rules laid down in the annexes relating to lights, signals, rules of the airway, ballast and other particulars of operation, irrespective of the territory over or upon which the violations were committed.[22] The result is to give extraterritorial jurisdiction over violations committed by nationals of the state, which, of course, reverses the principle of criminal jurisdiction recognized throughout the United States.

In the United States, and indeed in other countries having a federal system of delegated powers, the treaty-making authority acts with caution in modifying a rule of private law otherwise reserved to the States. Wide differences of opinion have arisen in reference to the constitutional scope of the treaty-making power of the United States. While the United States Supreme Court has never declared a treaty to be void because in derogation of local law, yet a tendency is noticeable in that tribunal to interpret such treaties with great strictness.[23] Even with the constitutional question out of the way, the treaty-making policy of the United States has thus far been opposed to the direct regulation of private international law by treaty. It is to be

[22] Convention, Arts. 24-25.

[23] See, for example, Rocca *v.* Thompson (1911), 223 U. S. 317, in which a treaty according the right to certain foreign consuls "to intervene in the possession, administration and judicial liquidation of the estate of the deceased, conformably with the laws of the country, for the benefit of the creditors and legal heirs," was interpreted as not giving such consuls the right to be appointed administrators of the estates of the deceased. The constitutional question is involved in the treaty with Great Britain relative to migratory birds and in this connection the subject has been reviewed and discussed in a recent decision of the United States District Court in Arkansas. United States *v.* Thompson, 258 Fed. Rep. 257, Advance Sheets, September 25, 1919.

hoped that this policy will change with the expanding commerce of the United States. Much time and care have been given to the subject in negotiations with South American countries. Until some general policy has been determined, however, it would seem unsystematic and confusing to adopt rules of this character in highly specialized treaties such as the present, where the rules would be applicable only to acts and transactions taking place upon aircraft in flight.

### THE INTERNATIONAL COMMISSION FOR AIR NAVIGATION

The convention provides for the organization of an international union for the administration of international air navigation and for the elaboration of legislation to be applicable to it from time to time. The organ of the union will be the International Commission for Air Navigation. Its organization is to be under the control of the League of Nations. Representation is measured somewhat after the principle adopted for the Assembly of the League. The five great Allies have each two representatives. All other contracting states have each one representative, the self-governing British Dominions and India counting for this purpose as states. The vote is taken according to states, but the five great Powers reserve to themselves the majority of the votes by the provision that each shall have "the least whole number of votes which, when multiplied by five, will give a product exceeding by at least one vote the total number of votes of all the other contracting states.[24]

The Commission will select its permanent seat. The first meeting is to be held in Paris as soon as the majority of the signatory states ratify the convention. The Commission receives and acts upon proposals for amending the convention, or any of its annexes, collects and communicates to the various states information of all kinds concerning international air navigation and all correlated sciences and arts; publishes official maps and gives opinions on questions which the states may submit for examination. Amendments must be formally ratified by the states, but a modification of any of the annexes may be made upon a three-fourths vote, without reference to the contracting states.

[24] Convention, Art. 35.

### CUSTOMS ADMINISTRATION FOR AIRCRAFT

The greatly extended use of aircraft for commercial transportation which now seems impending will require entirely new methods of customs administration. The convention essays to lay down certain rules by which the states are to coöperate in administering customs and in the prevention of customs fraud. Aircraft must depart from and alight only upon especially designated "customs aërodromes." Places for crossing a frontier are to be indicated on aëronautical maps. The inspection of documents is regulated in a manner analogous to marine vessels; but the convention wisely allows a certain latitude for aircraft over which strict control at or near the frontier is not required.[25]

Even though customs administration as applied to aircraft be placed upon a uniform and internationally coöperative basis, opportunity for smuggling and fraud will be greatly enhanced by the introduction of this new means of transportation. Very many kinds of goods of high value but of light loading character are suitable for transportation over long distances by both airships and aëroplanes. In view of the fact that every field represents a port of embarkation and debarkation, and that delivery may be made with or without landing, by day or by night, customs control will be confronted with obstacles that seem almost insuperable. Even Tennyson foresaw "Pilots of the purple twilight, dropping down with costly bales." The expense of maintaining a customs-police adequate to meet the need may prove to be greater than any revenue return which might reasonably be expected. If this be true, the whole tariff system will be seriously affected in respect of many classifications.

### ARBITRATION AND ADHERENCES

Any disagreement relating to the interpretation of the convention is to be referred to the Permanent Court of International Justice to be established by the League of Nations and, until its establishment, to arbitration. But the International Commission for Air Navigation is competent to determine, by a majority of votes, a dispute upon any of the technical regulations.[26]

A neutral Power may adhere to the convention by simple declara-

[25] Convention, Annex H.

[26] *Ibid.*, Art. 38.

tion. An enemy state may adhere to it upon becoming a member of the League of Nations. Otherwise a unanimous vote of the contracting states is necessary, or, after January 1, 1923, a three-fourths vote. The convention may be denounced upon one year's notice after January 1, 1922, but denunciation takes effect only as to the state giving the notice.[27]

Under the Peace Treaty with Germany, aircraft of the Allied and Associated Powers have full liberty of passage over and of landing upon German territory, without reciprocal rights. Germany agrees to enforce the necessary measures so that the rules of the present convention for the control of traffic shall govern both local and foreign aircraft in Germany, until Germany is permitted to adhere to the present convention.[28]

## CONCLUSION

The convention represents in the main an admirable basis for the regulation of air navigation between nations. It bears evidence of having been principally the work of experts learned in the mechanisms and operation of aircraft. Many of its provisions deal exclusively with the practical problems of the art of aërial navigation. In so far as the convention deals with legal questions, it follows a principle of control over the airspace which preserves every demand of national sovereignty and at the same time encourages the development of navigation. Where the convention deals with the private relations of and criminal jurisdiction over persons traveling in aircraft, the jurists of Continental Europe seem to have carried the day with the application of the *lex patriæ*. Some compromise should have been effected between the Continental and the Anglo-American systems, or else the subject should have been omitted. It is not of first importance. The number of practical issues likely to arise will not be very great for some time to come, but the enforcement of these provisions within the United States might nevertheless become a source of embarrassment to the Federal Government.

Congress is confronted with the task of providing an adequate system of legislation for the regulation of aërial navigation. In order to be adequate, the system must be national in scope, just as the air-medium itself is national or international rather than local. The distance traversable in one flight and the speed at which aircraft travel,

[27] Convention, Arts. 43-45. [28] Treaty of Versailles, Arts. 315-320.

taken together with the fact that uniform regulation is essential to safety, all combine as elements in favor of national regulation, although such regulation may rely upon local administration. The adoption of methods at first employed in the control of railroads or in legislation for the automobile would result in like confusion and would tend to discourage the development of aviation. Congress has full power to establish a uniform scheme for the nation.[29] Curiously enough, international regulation has been elaborated in advance of national or local legislation both here and abroad. The first British statute was a mere fragment though known under the formidable title: "The Aërial Navigation Act, 1911."[30] Detailed regulation has recently been made effective by the promulgation of the "Air Navigation Regulations"[31] which are to be coördinated with the present convention and the powers of the International Commission. Much of the present convention, especially the technical parts contained in the voluminous annexes, constitute material adaptable to national requirements. Just as the international rules of marine navigation apply also within territorial waters, so it is intended that air navigation shall likewise be regulated by laws common to the whole world.

[29] United States *v.* Rio Grande D. & I. Co. (1899), 174 U. S. 690; Lake Shore & M. S. Ry. Co. *v.* Ohio (1899), 173 U. S. 285; Louisville & N. R. R. *v.* Eubank (1902), 184 U. S. 27; Houston & E. & W. T. R. R. *v.* United States (1914), 234 U. S. 342.

[30] Public Statutes, 1 & 2 Geo. V, chap. 4.

[31] *London Gazette*, April 30, 1919; reprinted in *Flying*, July, 1919, p. 525.

# EDITORIAL COMMENT

## POSTPONEMENT OF THE ANNUAL MEETING OF THE AMERICAN SOCIETY OF INTERNATIONAL LAW

At the meeting of the Executive Council of the American Society of International Law held in Washington on the 24th day of January, 1920, after very full discussion, the Council unanimously resolved that in view of the existing diplomatic situation, it was expedient to postpone the general meeting of the Society for the year 1920, until a time when general discussion of international questions that are of active public interest may be useful rather than embarrassing.

Timely notice of the postponed meeting will be given.[1]

ELIHU ROOT,
*President.*

## CHANGES IN THE JOURNAL

The expiration on December 31st last of the contract for the publication of the AMERICAN JOURNAL OF INTERNATIONAL LAW during the period of abnormally high prices, especially in the costs of printing and publication, placed the Society in a dilemma as to the proper course to pursue in order to bring its expenses within its income. The situation was thoroughly considered at a meeting of the Executive Committee held in Washington on January 24th last. It was thought inadvisable to make any increase in the annual dues of members or the subscription price to non-members, and alternative means of reducing the expenses of publication so as to enable the JOURNAL to be published at the present price were considered. After careful consideration, the following changes were found to be necessary in order to bring about the desired result: (1) to reduce the maximum number of pages per year in the JOURNAL and SUPPLEMENT from 1,200 to 1,000; (2) to discontinue the issuance of the SUPPLEMENT as a separate publication, but bind it under the same cover with the JOURNAL, retaining, however, its separate pagination so that it may

[1] In case the meeting is not held this year, the subscription fees paid by members for the Proceedings of this year's annual meeting will, unless otherwise requested, be retained and credited on the respective member's accounts in payment for the Proceedings of next year.—CHANDLER P. ANDERSON, *Treasurer.*

be permanently bound in a separate volume at the end of the year (for the latter purpose the JOURNAL will continue to be separately indexed); (3) to grant the publishers the privilege of advertising their own publications upon the covers of the JOURNAL, the advertising to be limited to publications dealing with political science and to be approved by the Editor-in-Chief.

With these modifications, the Executive Committee is happily able to announce that it will not be necessary to increase the membership dues or the subscription price.

Owing to the issuance of the January and April numbers of the present year as a double number, it was possible to retain the JOURNAL and the SUPPLEMENT under separate covers, but beginning with the present number the SUPPLEMENT will be bound in the same cover with the JOURNAL, retaining its separate pagination, as above stated.

Up to the present time, the Society has utilized its small annual surplus for the publication and gratuitous distribution to its members of the printed volume of Annual Proceedings. Under the new printing arrangements, however, the Society will be unable to print and distribute the Proceedings free of charge. Upon this point the Executive Committee at its meeting on January 24th adopted the following resolution:

*Resolved*, That, owing to the greatly increased cost of publication, the free distribution of the Proceedings be hereafter discontinued and that a charge of one dollar and fifty cents per copy be made, the said charge to be entered separately on the due notices at the beginning of the year.

The intent of the above resolution is clear, namely, that those members who desire to receive the printed Annual Proceedings should subscribe to them separately at the rate of $1.50; but there is no obligation to subscribe.

It was with much regret that the Executive Committee felt compelled to make any change at all in the publication of the JOURNAL after so many years of continued issuance without change, but the Committee felt that the acceptance of these slight modifications was preferable to an increase in the price. The modifications are regarded only as temporary, and the JOURNAL will revert to its old form as soon as publication costs return to anything approaching the old basis.

JAMES BROWN SCOTT,
*Recording Secretary and Editor-in-Chief.*

## UNITED STATES CONGRESSIONAL PEACE RESOLUTION

The leading authorities on international law agree that peace can be reëstablished between belligerents in other ways than by a treaty of peace.

This question was under discussion in Congress in the recent debate on the peace resolution adopted in its final form by the Senate on May 15, 1920,[1] repealing the joint resolution of April 6, 1917,[2] declaring that a state of war exists between the United States and the Imperial German Government, and the joint resolution of December 7, 1917,[3] declaring that a state of war exists between the United States and the Austro-Hungarian Government.

The views of the majority were concisely expressed in the following extract and citations quoted from the report of the Committee on Foreign Affairs of the House on this resolution:

> The authorities on international law agree that there are three ways of terminating war between belligerent states: First, by a treaty of peace; second, by the conquest and subjugation of one of the belligerents by the other; third, by the mere cessation of hostilities so long continued that it is evident that there is no intention of resuming them.
>
> > War may be terminated in three different ways: Belligerents may (1) abstain from further acts of war and glide into peaceful relations without expressly making peace through a special treaty, or (2) belligerents may formally establish the condition of peace through a special treaty of peace, or (3) a belligerent may end the war through subjugation of his adversary. (Oppenheim, International Law, vol. 2, p. 322.) . . .
> >
> > It is certain that a condition of war can be raised without an authoritative declaration of war, and, on the other hand, the situation of peace may be restored by the long suspension of hostilities without a treaty of peace being made. History is full of such occurrences. What period of suspension of war is necessary to justify the presumption of the restoration of peace has never yet been settled, and must in every case be determined with reference to collateral facts and circumstances. (Mr. Seward, Secretary of State, July 22, 1868, Dip. Cor., 1868, Vol. 2, pp. 32 to 34, cited Moore's International Law, Vol. 7, p. 336.)

The opposition relied chiefly upon challenging the constitutional authority of Congress to make peace by resolution, arguing that inasmuch as the Constitution expressly conferred upon Congress the power

[1] Text printed, *infra*, p. 419.

[2] Printed in Supplement to the JOURNAL, Vol. 11 (July, 1917), p. 151.

[3] *Ibid.*, Vol. 12 (January, 1918), p. 9.

to declare war and was silent on the subject of making peace, the latter power, by implication, was withheld from Congress. The majority view which prevailed was that having conferred upon Congress the exclusive power to declare war, the Constitution would likewise have conferred upon the treaty-making power the exclusive power to make peace, if that had been its intention, and that the silence of the Constitution on the subject of making peace unquestionably meant that it was not within the exclusive jurisdiction of Congress or of the treaty-making power, but could be dealt with by the Federal Government under its national war powers through either one of these agencies.

The President vetoed the resolution, but his objections to it were based on other grounds than those discussed above, and as the resolution was not passed over his veto, its political aspect has been eliminated, and it may be examined impartially from the point of view of international law.

By this resolution Congress not only repealed its earlier resolutions which formally established the existence of a state of war between the United States and the Governments of Germany and Austria-Hungary, but also declared that the state of war was at an end.

The material facts, which seem to have been chiefly relied on in support of the declarations of the resolution in relation to the war with Germany (the Austrian situation was ignored in the debate) were that actual hostilities had ceased for more than a year and a half; that Germany had been required to surrender most of its warships and military equipment under the terms of the armistice and was incapable of renewing hostilities, and in fact had capitulated; that the Imperial German Government, with which the United States had declared itself to be in a state of war, was no longer in existence, and Congress had never declared the United States to be in a state of war with the German people or the present German Government; that commercial intercourse between the two countries had already been resumed, and finally that Germany had formally and officially declared that so far as she was concerned the state of war with all the belligerent Powers had terminated because the Treaty of Versailles, which Germany had ratified and was bound by, expressly declared that upon its coming into force the state of war was terminated.

It would seem, therefore, that from the point of view of interna-

tional law, apart from any constitutional question, the legal grounds upon which Congress based its action in adopting this resolution might fairly be stated to be that, inasmuch as a status of peace had in fact already been resumed, a resolution of Congress recognizing and declaring the existence of this state of peace, and repealing the earlier resolutions declaring the existence of a state of war, was an appropriate and effective way and all that was necessary to complete officially and formally a state of peace on our part with Germany in conjunction reciprocally with the state of peace already declared on their part with us.

Another interesting declaration in the resolution from the point of view of international law is found in section 3, which provides—

> That until by treaty or Act or joint resolution of Congress it shall be determined otherwise, the United States, although it has not ratified the treaty of Versailles, does not waive any of the rights, privileges, indemnities, reparations, or advantages to which it and its nationals have become entitled under the terms of the armistice signed November 11, 1918, or any extensions or modifications thereof, or which under the treaty of Versailles have been stipulated for its benefit as one of the principal allied and associated powers and to which it is entitled.

This reservation addresses itself to the Allied Powers associated with the United States in the war, rather than to Germany, in view of the provisions of the Treaty of Versailles which relate to the pledging of all of the assets of Germany as security for the payment of Germany's obligations to the Allied and Associated Powers, and certain properties, such as ships and securities and gold deposits and colonies, which are specifically surrendered to the Principal Allied and Associated Powers, of which the United States is one.

The rights secured to the Allied and Associated Powers by the terms of the treaty were not made conditional, so far as each party in interest was concerned, upon its ratification of the treaty, but are recognized by the treaty as inuring to them on account of their participation in the war.

The legal position would seem to be that inasmuch as this treaty was made for the benefit of the belligerent Powers, the United States, as one of them, although not having ratified the treaty, and even though it may never ratify this treaty, is entitled to retain, if it so desires, the rights which inured to it as a member of the group to which Germany has surrendered and for whose benefit the treaty was made.

A declaration of peace by the United States with Germany, independently of the treaty and without reference to it, might have been regarded by the Powers associated with the United States in the war as a relinquishment of the rights which the treaty recognized that the United States was entitled to as one of the Principal Allied and Associated Powers in the war against Germany. It was doubtless for this reason that Congress included in the resolution this reservation showing that it was not intended to waive or relinquish these rights, so that the Allied Powers would not feel at liberty to dispose of the assets of Germany and arrange their commercial and financial relations with Germany without regard to the rights of the United States.

CHANDLER P. ANDERSON.

## THE PERMANENT COURT OF INTERNATIONAL JUSTICE

The immediate task of the Peace Conference at Paris having been to terminate a general war upon terms dictated by the victorious Powers and to impose upon the vanquished necessary penalties as the consequence of their aggressions, the occasion was not well adapted for the organization of permanent institutions for the preservation of the future peace of the world. The reasons for this are obvious. Peace having been imposed upon the Central Powers by military force, a military organization was necessary for its execution. The Covenant of the League of Nations was designed to fulfill this purpose, and was therefore framed in the spirit of a military alliance between its members and was at least temporarily directed against a vanquished enemy. Founded thus upon the idea of force, the terms of the Covenant prescribed the conditions upon which force would, if necessary, be applied. It was primarily a military compact.

That the peace of nations, to be secure, must rest upon some deeper foundation than military power was evident even to those who proposed this compact. Provisions were, in consequence, introduced into the Covenant for the voluntary arbitration of international disputes and for conciliatory influence on the part of the Council. Farther than this it did not seem to the Supreme Council of the Allied Powers expedient at the time to go. When the Covenant was presented for ratification in the United States, it was justly urged that there was

in it no provision for a judicial settlement of differences through which a nation might assert its legal rights in lieu of war, and that there was in the Covenant no declaration of the existence of any rights which could be successfully vindicated against an aggressor by any other means than war.

This failure to make provision for determining judicially any one's rights left the Covenant open to the objection that it not only made no advance upon the status created by the Hague Conventions, but by ignoring the results of these efforts to establish international justice and the two hundred treaties of arbitration which they inspired, in effect virtually repudiated all the progress toward a judicial remedy for the violation of rights which had been attained during the last quarter of a century.

The explanation of this is evident. Had the Conference at Paris been a judicial rather than a political undertaking, it would have begun with a recital of the offenses committed by the Central Powers in violating the Hague Conventions and would have taken up the further development of the movement that led to the adoption of those agreements. It would then have become evident that the Second Conference at The Hague had carried that movement forward to a point where nothing was needed for its success but a disposition on the part of the Powers to regard themselves as responsible for defending and enforcing their own agreements.

The weakness and temporary failure of the movement resulting in the Hague Conventions were not owing to any defects in those compacts as efforts of jurisprudence, but to the lack of the political courage on the part of the signatories to assert the rights and assume the obligations which they implied.

At Paris political questions were of necessity in the foreground. The jurists were overshadowed by the political protagonists who occupied the center of the stage. There were present neither the forces, nor the motives, nor the atmosphere for establishing an institution of justice.

Looking at the situation dispassionately and in a purely historic spirit, it is incontrovertible that political adjustments and not the creation of any institution of justice were the main purpose of the Conference. From the nature of the circumstances jurisprudence could not be the controlling influence in its procedure. The utmost that could be conceded to it was that it might eventually have its day.

Accordingly, in Article XIV of the Covenant it was provided that

> The Council shall formulate and submit to the members of the League for adoption plans for the establishment of a permanent court of international justice. The court shall be competent to hear and determine any dispute of an international character which the parties thereto submit to it. The court may also give an advisory opinion upon any dispute or question referred to it by the Council or by the Assembly.

Not to have made this provision would have subjected the Conference to just condemnation as wholly reactionary, rather than merely improgressive in the cause of international justice. The Second Hague Conference had actually elaborated a plan for such a court, and the majority of the nations had approved it. Even those Powers that secretly were opposed to it professed to favor it, and confined their obstruction to inspiring and emphasizing the difficulties raised ostensibly by the small states regarding the selection of judges. Even in 1907 no nation was inclined publicly to oppose the project of a permanent court of international justice.

The proposal embodied in Article XIV of the Covenant is clearly less committed to the conception of imperative justice than the Hague Conference of 1907. In that conference it was, in effect, conceded that an international court should have jurisdiction over all "justiciable" cases, a previous agreement being made as to what disputes should be recognized as having this character. Article XIV, on the contrary, attempts no discrimination between justiciable and non-justiciable differences, limiting the jurisdiction of the court to "any dispute of an international character which the parties thereto may submit to it"; although "the court may also give an advisory opinion upon any dispute or question referred to it by the Council or by the Assembly."

There is, then, no provision in the Covenant of the League of Nations, even prospectively, by which a weak nation can find a judicial remedy for an injury inflicted by a strong nation, unless the alleged aggressor consents to an adjudication.

It is perhaps expecting too much to imagine that a group of victorious Great Powers, preocupied with the conclusion of a successful struggle with a powerful adversary, would be mentally or morally adjusted to the refinements of jurisprudence. The time and the circumstances in which the Covenant was conceived did not permit of that.

It would be equally untimely at present to start a discussion regarding all the difficult and delicate problems connected with the nature and jurisdiction of a permanent court of international justice. It will rejoice every jurist who is a friend of peace that the necessity of such a court was recognized even in the midst of political anxieties, and that the Council of the League of Nations, in fulfilment of that promise, has already assembled a competent body of jurists to consider dispassionately the problem of creating a real court of international justice as distinguished from a tribunal of compromise.

At the time of this writing the commission designated by the Council to perform this important task is already in session. A most noteworthy observation is that it is in no sense a political body. Its members, all of them persons familiar with international law as a science, and in most cases of international reputation, have been chosen because of their eminent attainments and large experience as jurists, and are not to be specially identified with merely national interests. The auspices for a successful result of their labors could not be more promising.

Perhaps the most promising of them all is the selection by the Council of the Honorable Elihu Root to represent American jurisprudence in the commission. Other members of it are understood to have been named by their own governments as their most capable representatives. Mr. Root represents no government, but jurisprudence pure and simple, having been invited to sit on the Commission solely because of his knowledge, experience, and intellectual eminence as a jurist. His presence there is the highest honor that could be bestowed on him or on his country. He will propose nothing, and he will accept nothing, that is not internationally just and at the same time compatible with the institutions and the honor of the United States.

It is in this combination of qualifications that the significance of the selection of Mr. Root lies. He has not hesitated to criticise severely the juridical deficiencies of the Covenant of the League of Nations. On the other hand, he has insisted upon reservations on the part of the United States if this country is to become a member of the League of Nations. In view of these two attitudes of Mr. Root, the invitation extended to him to participate in the formation of the plan for a court to be submitted to the League is pregnant with meaning. On the one hand it is the highest possible compliment to his integrity

and his intelligence, and on the other it reveals a disposition to accept such a transformation of the original form and purpose of the League as may in time wholly alter its character, bringing its juridical function into the foreground, and thus providing a means for gradually extruding its military qualities.

It is impossible at this point to pass over in silence the position taken by Mr. Root on the improvement of international law and reliance upon it, supported by the public opinion of the civilized world, rather than upon military force, as an influence for peace.

After the first draft of the Covenant of the League of Nations was published in the United States, Mr. Root proposed an amendment, which was endorsed by a committee of eminent members of the American Bar and by the Executive Council of the American Society of International Law, reading:

> The Executive Council shall call a general conference of the Powers to meet not less than two years or more than five years after the signing of this convention for the purpose of reviewing the condition of international law, and of agreeing upon and stating in authoritative form the principles and rules thereof. Thereafter regular conferences for that purpose shall be called and held at stated times.

This proposed amendment was sent to Paris through the Department of State, but no action was taken upon it by the Conference.

The perfect reasonableness of this proposal renders it difficult to understand why, if it was ever laid before the committee on revision, no notice was taken of it. The adoption of the amendment would have gone far to show that the conception of the Covenant was not chiefly military, but in part at least juristic. It raised the question, still unanswered, whether the effect of the League would be to suppress purely legal methods and to base its action on arbitrary decisions.

The subject of the future of international law is closely connected with the establishment of a permanent court; for the court, if it is to be a court of justice, must be guided by the law, while at the same time its decisions will tend to constitute the law.

It would be untimely here to open a controversy over the question whether international law is likely to be most improved by fresh conferences and further codification on the one hand, or by a sequence of judicial decisions on the other. But, without raising this question, it is evident that the aversion to judicial decisions in international disputes is based quite as much on the inadequacy, the ambiguity, or

the positive imperfections of the law as upon the incompetency or prejudice of judges. A clarification of international law, from whatever source it may come, would go far, in the first instance, to secure obedience to its provisions, and in the second place to create confidence in the justice of the decisions of an international tribunal.

Indisputably, however, the first step to take is to establish a permanent court the end of which shall be justice and not mere temporary expediency. A determination of what class of cases can be brought before it will be, perhaps, the next step; but its final triumph must await the further development of the law.

When the nations have the wisdom and the courage to stand by the law and realize their obligation not only to obey but to support its enforcement, it will become more clearly apparent that the world's peace does not rest upon a combination of military forces pledged to protect territorial possessions and pretensions, but upon the opportunity to vindicate a right and redress a wrong by an appeal to a tribunal whose aim and whose glory consist in the fearless pursuit of justice under accepted law.

DAVID JAYNE HILL.

## THE RIGHTS OF MINORITIES UNDER THE TREATY WITH POLAND

It has been neither difficult nor unpopular to pick flaws in the settlements which have been negotiated to wind up the World War. Nevertheless, the great mass of such treaty provisions have been in accord with the conscience and the sense of justice of the Allied and Associated Powers, rather than with their mere material interests. Relatively the flaws are trifling.

Amongst the provisions necessary to a stable and enduring future for the newly formed states, is the just treatment of those minorities which by reason of race or religion might suffer discrimination. We recall the repeated efforts of Prussia to stamp out language and spirit of nationality in her Polish subjects, and still more those of Russia. Are the tables now to be turned? The treaty which creates Poland is a sample of the working of the new spirit. For as Clémenceau declares in his letter on the subject of the treaty to M. Paderewski, referring to Article 93 of the German treaty, "This clause relates only to Poland, but a similar clause applies the same principles to

Czecho-Slovakia, and other clauses have been inserted in the Treaty of Peace with Austria and will be inserted in those with Hungary and with Bulgaria, under which similar obligations will be undertaken by other states which under those treaties receive large accessions of territory." This was to warn Poland and to reassure the beaten states which were now to lose portions of their soil by incorporation in new political units.

I have spoken of the new spirit, but the new conscience is a better word. Let us hope that it will endure.

Article 93 to which M. Clémenceau refers, in the Treaty of Peace with Germany negotiated at Versailles, is as follows:

> Poland accepts and agrees to embody in a treaty with the Principal Allied and Associated Powers such provisions as may be deemed necessary by the said Powers to protect the interests of inhabitants of Poland who differ from the majority of the population in race, language or religion.
>
> Poland further accepts and agrees to embody in a treaty with the said Powers such provisions as they may deem necessary to protect freedom of transit and equitable treatment of the commerce of other nations.

How has this pledge been fulfilled, and how are the minority rights guaranteed! The answer must be largely in the Treaty language.[1]

Article 3 declares that those German, Austrian, Hungarian or Russion nationals who before the war were resident in the partitioned Poland, are now to become nationals of the new created Poland, subject to special arrangements which may be contained in the treaties with Austria and Germany. But, nevertheless, they may opt (dreadful word) unhindered some other nationality. If so, they must change residence to this preferred state within a twelvemonth. And property

[1] Treaty of Peace between the United States of America, the British Empire, France, Italy and Japan and Poland. Signed June 28, 1919. Supplement to this JOURNAL, October, 1919, p. 423.

> Art. 1. Poland undertakes that the stipulations contained in Articles 2 to 8 of this chapter shall be recognized as fundamental laws, and that no law, regulation or official action shall conflict or interfere with these stipulations, nor shall any law, regulation or official action prevail over them.
>
> Art. 2. Poland undertakes to assure full and complete protection of life and liberty to all inhabitants of Poland without distinction of birth, nationality, language, race or religion.
>
> All inhabitants of Poland shall be entitled to the free exercise, whether public or private, of any creed, religion or belief, whose practices are not inconsistent with public order or public morals.

rights under such option are equitably laid down, also the status of minors.

This provision is less liberal than the usual one, as found, for instance, in our treaty with Spain of 1898, Article IX of which permits Spanish subjects to continue residence in ceded territory upon declaration of a desire to retain the old allegiance.

Art. 7. All Polish nationals shall be equal before the law and shall enjoy the same civil and political rights without distinction as to race, language or religion.

Differences of religion, creed or confession shall not prejudice any Polish national in matters relating to the enjoyment of civil or political rights, as, for instance, admission to public employments, functions and honors, or the exercise of professions and industries.

No restriction shall be imposed on the free use by any Polish national of any language in private intercourse, in commerce, in religion, in the press or in publications of any kind, or at public meetings.

Notwithstanding any establishment by the Polish Government of an official language, adequate facilities shall be given to Polish nationals of non-Polish speech for the use of their language, either orally or in writing, before the courts.

Art. 8. Polish nationals who belong to racial, religious or linguistic minorities shall enjoy the same treatment and security in law and in fact as the other Polish nationals. In particular they shall have an equal right to establish, manage and control at their own expense charitable, religious and social institutions, schools and other educational establishments, with the right to use their own language and to exercise their religion freely therein.

Articles 9 and 10 relate to education in the public schools. Though teaching the Polish language may be made obligatory, yet in the primary schools instruction of the children of minorities of another tongue must be provided also. And such minorities shall have their fair share of the public funds for educational, religious or charitable purposes. Jewish schools shall be no exception to this rule. Nor may Jews be compelled to violate their Sabbath under penalty of legal disability, though this shall not exempt them from military or other obligations to the state.

Such are the specified rights of minorities in the new Poland. How now are these rights to be guaranteed? The answer is found in Clémenceau's letter of transmission, accompanying the Polish Treaty.

It is indeed true that the new treaty differs in form from earlier conventions dealing with similar matters. The change of form is a necessary consequence and an essential part of the new system of international relations which is now being built up by the establishment of the League of Nations. Under the older

system the guarantee for the execution of similar provisions was vested in the Great Powers. Experience has shown that this was in practice ineffective, and it was also open to the criticism that it might give to the Great Powers, either individually or in combination, a right to interfere in the internal constitution of the states affected which could be used for political purposes. Under the new system the guarantee is entrusted to the League of Nations. The clauses dealing with this guarantee have been carefully drafted so as to make it clear that Poland will not be in any way under the tutelage of those Powers who are signatories to the treaty.

M. Clémenceau's reference is to Article 12 of the Treaty with Poland. This will illustrate how the Covenant of the League is interwoven with all the treaties. It is necessary to quote Article 12 in full.

Poland agrees that the stipulations in the foregoing articles, so far as they affect persons belonging to racial, religious or linguistic minorities, constitute obligations of international concern and shall be placed under the guarantee of the League of Nations. They shall not be modified without the assent of a majority of the Council of the League of Nations. The United States, the British Empire, France, Italy and Japan hereby agree not to withhold their assent from any modification in these articles which is in due form assented to by a majority of the Council of the League of Nations.

Poland agrees that any member of the Council of the League of Nations shall have the right to bring to the attention of the Council any infraction, or any danger of infraction, of any of these obligations, and that the Council may thereupon take such action and give such direction as it may deem proper and effective in the circumstances.

Poland further agrees that any difference of opinion as to questions of law or fact arising out of these articles between the Polish Government and any one of the Principal Allied and Associated Powers or any other Power, a member of the Council of the League of Nations, shall be held to be a dispute of an international character under Article 14 of the Covenant of the League of Nations. The Polish Government hereby consents that any such dispute shall, if the other party thereto demands, be referred to the Permanent Court of International Justice. The decision of the Permanent Court shall be final and shall have the same force and effect as an award under Article 13 of the Covenant.

Under the old system, discredited because ineffective, treaty stipulations looked for enforcement to the military power of the guarantors. The new order, without military power because it presupposes that a large reduction of armament has taken place and that conscription is a thing of the past, has to rely upon judicial determination at the hands of the League Court, to be executed in last resort by boycott or the force of all against one.

Note also the preferred position of the Council Members. If one of them is party to a dispute with Poland, then the machinery of the League is set in motion. But if not, if for instance, the dispute were between Poland and Germany, then the remedy depends upon whether a Council Member takes up Germany's cause.

It is truly a complete change in the organization of the Society of Nations. To visualize it requires imagination and hopefulness. But the alternative is despair.

THEODORE S. WOOLSEY.

## THE MANDATE OVER ARMENIA

President Wilson, on May 24th, appealed to Congress to authorize the United States to undertake a mandate over Armenia in response to the request of the Supreme Council at its meeting in San Remo. The President indicated at the same time that he had agreed to delimit the boundaries of Armenia within the Turkish Vilayets of Van, Bitlis, Trebizond, and Erzerum. It should be observed that both requests emanated from the Supreme Council and not from the League of Nations under whose control all mandates are to be placed.

On May 29th, after a brief and somewhat partisan debate, the United States Senate passed the following concurrent resolution declining to accede to President Wilson's appeal:

> Resolved by the Senate (the House of Representatives concurring), That the Congress hereby respectfully declines to grant to the Executive the power to accept a mandate over Armenia as requested in the message of the President dated May 24, 1920.

No formal reasons were adduced for this action, though the debate brought out certain fundamental objections. These objections were based for the most part on the special report submitted by Major-General James G. Harbord, head of the American Military Mission to Armenia appointed by President Wilson.

While not making any specific recommendations, this report stressed certain difficulties in the way of undertaking a mandate over Armenia. The military problem of preserving internal order and guarding against external aggression from troublesome neighbors was presented as being grave in character. The political complications bound to result from interjecting the United States into the mael-

strom of the Eastern Question for a generation or more were pointed out. And the financial burden of a mandate was estimated at the high figure of over seven hundred and fifty-six million dollars for the first five years.

These objections seemed to weigh heavily in the minds of the Senators opposed to the mandate, though, as a matter of fact, General Harbord's observations applied not to this specific proposal for a mandate over a lesser Armenia, but to the idea of one large mandate involving the whole of Anatolia, Constantinople and European Turkey, as well as Transcaucasian Armenia.

Ignoring undoubted considerations of a partisan nature, it would seem evident that the hostility of Congress toward this mandate is based in part on a genuine distrust of the League of Nations and of all the responsibilities implied in its membership as illustrated by this proposal that the United States should administer Armenia.

The practical problem presented by this momentous proposal is unquestionably whether the United States should be made an active party to the Eastern Question. That the Eastern Question is very much alive is evidenced by the open rivalries of the European Powers for a favored position in the Near East. Under the guise of "mandates," Great Britain, France, Italy and Greece are seeking valuable additions of territory.

The attitude of Great Britain calls for especial comment. In addition to Palestine and Mesopotamia, not to include spheres of influence in Arabia and Persia, Great Britain has actually occupied Constantinople, with the nominal though reluctant coöperation of her allies, and has apparently settled down by the Bosphorus for an indefinite stay.

Historical candor requires that attention should be drawn to the fact that by the Treaty of Berlin in 1880, Great Britain assumed the rôle of protector of the Armenians and took over the Island of Cyprus as a gage for the introduction of reforms in Armenia by the Porte. Sultan Abdul Hamid was not slow to realize that the Armenians were in error in believing that they could count on valiant support in their aspirations for social and political amelioration. Previous to 1880, bad as was the lot of all the misgoverned subjects of the Ottoman Empire, the Armenians had existed in relative quiet without grave molestation from the Turks. The embitterment of relations between the two races, and the terrible massacres which

occurred in 1895 and 1896, and which were the precursors of the general policy of extermination adopted later by the Young Turks, must be attributed in the main to the intrusive and fruitless friendship of Great Britain for the Armenians. When one contemplates the enormous sacrifices made by Great Britain in the Great War, he is tempted to excuse her unwillingness to assume the burden of administering Armenia. But against this must be set the fact that Great Britain seems quite willing to assume new burdens in Palestine, Mesopotamia, Constantinople, Persia, and elsewhere where material advantages are promising.

The chief concern of the European Powers is, apparently, not for the welfare of the oppressed nationalities of the Near East, but the attainment of selfish materialistic ends. And having reached a fairly satisfactory division of territory, they now appeal to the United States to accept the thorniest and the most undesirable task of caring for the grossly neglected and unloved Armenians.

These unpleasant facts should be borne in mind when Americans are accused of selfish indifference toward the Armenians. One must ask in all fairness why public opinion in Great Britain has not been aroused to a keener sense of the obligations of honor to care for these most unfortunate people.

Under all these circumstances it is not at all strange that the American people should be most reluctant to become acutely embroiled in the Eastern Question by accepting so onerous a burden as the mandate over Armenia. And yet the hearts of the American people have been deeply touched by the tragic lot of these unhappy people, who even now—a miserable remnant—are unprotected from utter annihilation at the hands of the Turks, the Kurds, and their Tartar neighbors in Azerbaijan. Very large contributions have been made for purposes of relief in the Near East, and many heroic Americans in various capacities are devoting themselves under trying and dangerous conditions to the task of bringing immediate help and hope to these despairing people.

This sympathy for the Armenians was expressed in the Senate debate by Senator Hitchcock in an alternative proposal to the effect that the Armenian Republic should be aided and encouraged in its efforts to raise funds and obtain valued moral support of various kinds. This proposition is not without considerable merit, though it received slight consideration at the hands of the Senate. The moral

support of the American Government and of the whole American people might result in the enlistment of a large number of men and women of tested leadership, and of high devotion and courage to go to Armenia and undertake the colossal, though inspiring, task of helping to bring order out of chaos, and hope out of black despair.

The larger problem of the obligations of the whole family of nations toward peoples and nations in a backward stage of development is vividly epitomized by the question of a mandate for Armenia. The United States has been compelled to acknowledge the existence of such practical problems in the cases of Haiti and Santo Domingo, where American officials and soldiers are playing the high rôle so aptly described by President Wilson as that of "big brother." There are many such situations the world over, and suffering Armenia is surely the most poignant. It may be asserted with considerable force that the United States has its own vast obligations on this Continent, not to speak of its duty toward the Filipinos, and that we cannot play the part of "constable to all creation." It may fairly be said that if Europe is callously indifferent to the needs and the rights of the Armenians, there is no obligation on us to undertake Europe's own peculiar task.

The fact remains, however, that after the close of a terrible war which we hoped might establish the rights of all nations and lay the secure foundations of international law, the world seems to stand indifferent to the rights of an ancient race still in bondage.

Whatever justification there may be for this refusal to undertake a mandate over Armenia, it is doubtful whether the American people can remain passive and permit this nation to be completely extirpated while the rest of the world, in cynical devotion to selfish aims, fails to take the necessary steps to avert so unspeakable a catastrophe. International good citizenship would seem to require that the United States should assert its moral leadership in behalf of the fundamental rights of nations.

PHILIP MARSHALL BROWN.

## THE EXTENSION OF CONGRESSIONAL JURISDICTION BY THE TREATY-MAKING POWER

By the recent decision of the Supreme Court of the United States in the case of Missouri *v.* Holland, that court, in an opinion delivered by Mr. Justice Holmes, definitely and conclusively decided in the affirmative the much debated question of whether or not a distinction should be drawn between the jurisdiction of the treaty-making power and the jurisdiction of Congress in relation to the so-called reserved powers under the Constitution.

This question was discussed in an article published in an early number of this JOURNAL [1] wherein it was pointed out that the treaty-making power itself was one of the powers delegated to the Federal Government and therefore was not affected by the Tenth Amendment to the Constitution reserving to the States or to the people the powers not delegated to the United States by the Constitution. Furthermore, it was contended that it was well settled not only by the sanction of custom, but also by the authority of decisions of the Supreme Court, that in the international relations of the nation, the treaty-making power had jurisdiction over matters beyond the ordinary jurisdiction of Congress, and therefore that it must embrace some at least of the powers which, if measured by the jurisdiction of Congress, would be reserved to the states or to the people.

After examining these authorities, the conclusion was reached that the treaty-making power is a *national* rather than a *federal* power, and that this distinction measures the whole difference between its jurisdiction and the jurisdiction of Congress in relation to the so-called reserved powers.

It was also pointed out in that article that in cases in which the treaty-making power dealt with matters beyond the ordinary jurisdiction of Congress, that jurisdiction was thereby enlarged to meet the requirements of the situation, pursuant to the authority conferred upon Congress by the provisions of Article 1, Section 8, of the Constitution, which empowered Congress to "make all laws which might be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or any Department or officer thereof."

[1] "Extent and Limitations of the Treaty-Making Power," by Chandler P. Anderson, this JOURNAL, July, 1907. Vol. I, page 636.

The views and conclusions expressed in that article were challenged by several writers of authority, who dealt with the subject from the States' rights point of view, but the question can hardly be regarded any longer as open for discussion in view of this recent decision [2] of the Supreme Court, from which the following extracts are taken:

This is a bill in equity brought by the State of Missouri to prevent a game warden of the United States from attempting to enforce the Migratory Bird Treaty Act of July 3, 1918, c. 128, 40 Stat. 755, and the regulations made by the Secretary of Agriculture in pursuance of the same. The ground of the bill is that the statute is an unconstitutional interference with the rights reserved to the States by the Tenth Amendment, and that the acts of the defendant done and threatened under that authority invade the sovereign right of the State and contravene its will manifested in statutes. . . .

On December 8, 1916, a treaty[3] between the United States and Great Britain was proclaimed by the President. It recited that many species of birds in their annual migrations traversed many parts of the United States and of Canada, that they were of great value as a source of food and in destroying insects injurious to vegetation, but were in danger of extermination through lack of adequate protection. It therefore provided for specified close seasons and protection in other forms, and agreed that the two powers would take or propose to their law-making bodies the necessary measures for carrying the treaty out. 39 Stat. 1702. The above-mentioned Act of July 3, 1918, entitled an act to give effect to the convention, prohibited the killing, capturing or selling any of the migratory birds included in the terms of the treaty except as permitted by regulations compatible with those terms, to be made by the Secretary of Agriculture. Regulations were proclaimed on July 31, and October 25, 1918. 40 Stat. 1812; 1863. It is unnecessary to go into any details because, as we have said, the question raised is the general one whether the treaty and statute are void as an interference with the rights reserved to the States.

The opinion points out that to answer this question it is not enough to refer to the Tenth Amendment reserving the powers not delegated to the United States, because by Article 2, Section 2, the power to make treaties is delegated expressly, and by Article 6 treaties made under the authority of the United States, along with the Constitution and laws of the United States made in pursuance thereof, are declared the supreme law of the land. The opinion continues as follows:

If the treaty is valid there can be no dispute about the validity of the statute under Article I, Section 8, as a necessary and proper means to execute the powers of the Government. . . .

It is said that a treaty cannot be valid if it infringes the Constitution, that

[2] Printed *infra*, p. 459.

[3] Printed in Supplement to this JOURNAL. Vol. 11, 1917, page 62.

there are limits, therefore, to the treaty-making power, and that one such limit is that what an act of Congress could not do unaided, in derogation of the powers reserved to the States, a treaty cannot do. An earlier act of Congress that attempted by itself and not in pursuance of a treaty to regulate the killing of migratory birds within the States had been held bad in the District Court. United States *v.* Shauver, 214 Fed. Rep. 154. United States *v.* McCullagh, 221 Fed. Rep. 285. Those decisions were supported by arguments that migratory birds were owned by the States in their sovereign capacity for the benefit of their people, and that under cases like Geer *v.* Connecticut, 161 U. S. 19, this control was one that Congress had no power to displace. The same argument is supposed to apply now with equal force. . . .

Acts of Congress are the supreme law of the land only when made in pursuance of the Constitution, while treaties are declared to be so when made under the authority of the United States. It is open to question whether the authority of the United States means more than the formal acts prescribed to make the convention. We do not mean to imply that there are no qualifications to the treaty-making power; but they must be ascertained in a different way. It is obvious that there may be matters of the sharpest exigency for the national well-being that an act of Congress could not deal with but that a treaty followed by such an act could, and it is not lightly to be assumed that, in matters requiring national action, "a power which must belong to and somewhere reside in every civilized government" is not to be found. Andrews *v.* Andrews, 188 U. S. 14, 33. . . . The treaty in question does not contravene any prohibitory words to be found in the Constitution. The only question is whether it is forbidden by some invisible radiation from the general terms of the Tenth Amendment.

Here a national interest of very nearly the first magnitude is involved. It can be protected only by national action in concert with that of another power. The subject-matter is only transitorily within the State and has no permanent habitat therein. But for the treaty and the statute there soon might be no birds for any powers to deal with. We see nothing in the Constitution that compels the Government to sit by while a food supply is cut off and the protectors of our forests and our crops are destroyed. It is not sufficient to rely upon the States. The reliance is vain, and were it otherwise, the question is whether the United States is forbidden to act. We are of opinion that the treaty and statute must be upheld. Cary *v.* South Dakota, 250 U. S. 118.

The objection which suggests itself that a roundabout way is thus furnished by which Congress may be empowered to take jurisdiction generally over all the otherwise reserved powers seems to be met by the underlying condition, which applies to all such cases, that only those matters which directly concern the international interests of the nation and promote its general welfare can be brought within the jurisdiction of Congress in this way by treaties.

CHANDLER P. ANDERSON.

## IN MEMORIAM—ROBERT BACON

On the twenty-ninth day of May, 1919, Robert Bacon, a life member of the American Society of International Law, and at one time Assistant, and Secretary of State, Ambassador to France, Major, Lieutenant-Colonel, and Colonel in the American Expeditionary forces in France, died, in the fifty-eighth year of his age, in a hospital in the City of New York.

The thing at hand he did, and did well, in college, in business, in civil life and in the military service of his country.

As undergraduate of Harvard, in the class of his life-long friend Theodore Roosevelt, he was a good student and easily first in athletics.

In business he became the partner and confidant of the late John Pierpont Morgan.

Appointed Assistant Secretary of State by Secretary Root, that great statesman and competent judge of men said of him and to him:

> You have proved yourself far more able and forceful than I dared to hope—possessed of courage to take responsibility and conduct great affairs without flinching or the loss of judgment or nerve—competent to fill any post of government with distinction and success. More than that, you have had the imagination to realize the ultimate objects of policy, and tireless energy and enthusiasm and self-devotion in pressing towards those objects, and your brave-hearted cheerfulness and power of friendship and steadfast loyalty have been noble and beautiful.
>
> I am sure you have a still more distinguished career before you for all who love you to rejoice in.
>
> I count the day when you were surprised by the offer of the post of Assistant Secretary of State one of the most fortunate of my life.

Of him as Secretary of State, the late British Ambassador to the United States, James Bryce, has written:

> How often have I recalled the work we did together for furthering friendship and good relations between America and England, and how pleasant it was to deal with him. Such was the candor of his mind and the earnestness of his wish to settle everything in a way fair and just all round,—the right temper in which a Secretary of State in any country should approach his tasks.

Years after the end of his embassy to France, Saint-Dié, whose scholars gave the name of America to the New World, voted to give the name of America to one of its streets, in commemoration of the Four Hundredth Anniversary of that great event and in further com-

memoration of the entry of the United States into the war; and the committee in charge recalled and reproduced the following passages from Mr. Bacon's address, delivered in French at the Anniversary:

Après que la Lorraine française se fût penchée sur notre berceau pour nous donner un nom, ce fut la plus grande France qui jeta dans la balance son épée pour nous donner une indépendance. Ma présence au milieu de vous, vous prouve que l'Amérique n'oublie pas et conserve à jamais une place à part dans son affection à la jolie cité vosgienne de Sainte-Dié, à la belle France. . . .

Cette vieille et si pittoresque ville de Saint-Dié, où je reçois aujourd'hui une si cordiale et si touchante hospitalité, n'est pas seulement le lieu où furent tenus les fonts baptismaux du Nouveau Monde, elle fut aussi un centre intellectuel remarquable, à une époque où ils n'étaient pas communs, et elle a sa part d'influence dans le grand mouvement d'expansion des lettres au début du XVIe siècle.

Pour vous, Français, elle rappelle un passé heroique et brillant dont témoignent tant d'autres villes dans votre beau pays dont la longue existence historique a été si féconde en événements mémorables; mais pour nous, Américains, elle évoque le souvenir d'un fait unique dans son genre et l'image de Saint-Dié, ou l'Amérique reçut son nom, prend place dans nos coeurs à côté de celle de Versailles, où l'Amérique contracta avec la France une alliance indissoluble.

On May 1, 1918, General John J. Pershing, Commander-in-Chief of the American Expeditionary Forces, thus wrote of his services as Commandant of Chaumont:

I take this occasion to express to you my earnest appreciation of the wholehearted way in which you have constantly performed every duty given you since our departure from New York last May. Your enthusiasm, your willingness and singleness of purpose are an example to all of us.

Of his services as Chief of the American Mission with the British and attached to the Staff of Field Marshal Sir Douglas Haig, Commander-in-Chief of the British Army in France, Sir Douglas said in his official dispatch to the British Government:

My thanks are due to Lieutenant-Colonel Robert Bacon, who as Chief of the American Mission attached to my Headquarters has been able to give me advice and assistance of the greatest value on many occasions.

And in a personal letter, Sir Douglas wrote:

We treated him quite as one of ourselves, and indeed I had no Military secrets to conceal from him. . . .

I shall never forget what Robert Bacon did to help me during the last year of the war.

And the Chief of Staff of the British Army in France, General Sir H. A. Lawrence, wrote:

I wish I could make clear the inestimable service which he rendered to the Allied cause by acting as head of the Mission attached to our Headquarters.

His high character and splendid enthusiasm inspired all with whom he came in contact while his great experience made him a guide to whom all of us instinctively turned. . . .

He has given his life to his country just as much as if he had actually fallen on the field of battle, and I can assure you that his memory will long be cherished by the British Army.

On January 26, 1919, he was thus cited by Marshal Pétain, in Special Orders to the French Army:

Officier supérieur de haute valeur professionnelle et morale.—A comme Ambassadeur des Etats Unis en France, puissamment contribué au resserrement des liens d'amitié unissant les deux nations.—Nommé Aide de Camp du Général Commandant en Chef les Forces Américaines au débût de l'entrée en guerre des Etats Unis, s'est dépensé sans compter, et par son activité inlassable, et ses qualités d'orgainsateur a grandement contribué d'abord à la formation, puis au succès des Armées Américaines.

He was also cited and received the Distinguished Service Medal of the United States in the following terms:

For exceptionally meritorious and distinguished services. He served with great credit and distinction as Post Commandant of General Headquarters and as Aide-de-Camp to the Commander-in-Chief. By his untiring efforts as Chief of the American Mission at British General Headquarters, he has performed with marked ability innumerable duties requiring great tact and address.

Finally, the spirit in which he met and performed his duties, whether they concerned his country, the great or the lowly, and the impression left on all who came in contact with him, is evidenced by this little letter written by one Marguerite Gilly, under date of December 1, 1917, and addressed to him as "The Commandant, American Headquarters," at Chaumont:

Pardon me, sir, for the liberty I take in writing to you. Permit me, sir, to send you fifty francs in order to place a wreath on the grave of the little American Soldier who died far away from his country—coming to the aid of France. I did not myself dare to carry it there, else I should already have done so. Do not refuse, sir, the humble offering of a French woman who loves America above all things; who in memory of those dear dead, who have died for their country is proud and happy to offer a wreath to the American Soldier

who died far away from his mother, in order to come to the assistance of the children of France.

I shall always remember, sir, that you gave me permission to set up a little stand opposite the barracks—Thank you, sir. I beg you, sir, not to refuse to place a wreath for this little soldier. I believe it will bring happiness to my husband. I did not dare do it myself.

Thanking you, sir,—accept my sincere good wishes for America and for France.

Of a truth, the bravest are the tenderest.

JAMES BROWN SCOTT.

# CURRENT NOTES

## COMMENTARY ON THE LEAGUE OF NATIONS COVENANT

*British Foreign Office publication, presented to Parliament by command of His Majesty, June, 1919.*[1]

The first draft of the Covenant of the League of Nations was published on February 14, 1919; in the weeks following its publication the League of Nations Commission had the benefit of an exchange of views with the representatives of thirteen neutral governments, and also of much criticism on both sides of the Atlantic. The covenant was subjected to careful reëxamination, and a large number of amendments were adopted. In its revised form it was unanimously accepted by the representatives of the Allied and Associated Powers in plenary conference at Paris on April 28, 1919.

The document that has emerged from these discussions is not the constitution of a super-state, but, as its title explains, a solemn agreement between sovereign states, which consent to limit their complete freedom of action on certain points for the greater good of themselves and the world at large. Recognizing that one generation cannot hope to bind its successors by written words, the commission has worked throughout on the assumption that the league must continue to depend on the free consent, in the last resort, of its component states; this assumption is evident in nearly every article of the covenant, of which the ultimate and most effective sanction must be the public opinion of the civilized world. If the nations of the future are in the main selfish, grasping and warlike, no instrument or machinery will restrain them. It is only possible to establish an organization which may make peaceful coöperation easy and hence customary, and to trust in the influence of custom to mould opinion.

But while acceptance of the political facts of the present has been one of the principles on which the commission has worked, it has sought to create a framework which should make possible and en-

[1] Miscellaneous, No. 3 (1919). [Cmd. 151.]

courage an indefinite development in accordance with the ideas of the future. If it has been chary of prescribing what the league shall do, it has been no less chary of prescribing what it shall not do. A number of amendments laying down the methods by which the league should work, or the action it should take in certain events, and tending to greater precision generally, have been deliberately rejected, not because the commission was not in sympathy with the proposals, but because it was thought better to leave the hands of the statesmen of the future as free as possible, and to allow the league, as a living organism, to discover its own best lines of development.

### *The Members of the League*

Article I contains the conditions governing admission to the league, and withdrawal from it. On the understanding that the covenant is to form part of the Treaty of Peace, the article has been so worded as to enable the enemy Powers to agree to the constitution of the league, without at once becoming members of it. It is hoped that the original members of the league will consist of the thirty-two Allied and Associated Powers, signatories of the Treaty of Peace, and of thirteen neutral states.

It is to be noted that original members must join without reservation, and must therefore all accept the same obligations.

The last paragraph is an important affirmation of the principle of national sovereignty, while providing that no state shall be able to withdraw simply in order to escape the consequences of having violated its engagements. It is believed that the concession of the right of withdrawal will, in fact, remove all likelihood of a wish for it, by freeing states from any sense of constraint, and so tending to their more whole-hearted acceptance of membership.

### *The Organs of the League*

Articles II-VII describe the constitutional organs of the league.

The Assembly, which will consist of the official representatives of all the members of the league, including the British Dominions and India, is the conference of states provided for in nearly all schemes of international organization, whether or not these also include a body of popular representatives. It is left to the several states to decide how their respective delegations shall be composed; the members need not all be spokesmen of their governments.

The Assembly is competent to discuss all matters concerning the league, and it is presumably through the Assembly that the assent of the governments of the world will be given to alterations and improvements in international law (see Article XIX), and to the many conventions that will be required for joint international action.

Its special functions include the selection of the four minor Powers to be temporarily represented on the Council, the approval of the appointment of the Secretary-General, and the admission (by a two-thirds majority) of new members.

Decisions of the Assembly, except in certain specified cases, must be unanimous. At the present stage of national feeling, sovereign states will not consent to be bound by legislation voted by a majority, even an overwhelming majority, of their fellows. But if their sovereignty is respected in theory, it is unlikely that they will permanently withstand a strong consensus of opinion, except in matters which they consider vital.

The Assembly is the supreme organ of the League of Nations, but a body of nearly 150 members, whose decisions require the unanimous consent of some 50 states, is plainly not a practical one for the ordinary purposes of international coöperation, and still less for dealing with emergencies. A much smaller body is required, and, if it is to exercise real authority, it must be one which represents the actual distribution of the organized political power of the world.

Such a body is found in the Council, the central organ of the league, and a political instrument endowed with greater authority than any the world has hitherto seen. In form its decisions are only recommendations, but when those who recommend include the political chiefs of all the great Powers and of four other Powers selected by the states of the world in assembly, their unanimous recommendations are likely to be irresistible.

The mere fact that these national leaders, in touch with the political situation in their respective countries, are to meet once a year, at least, in personal contact for an exchange of views, is a real advance of immense importance in international relations. Moreover, there is nothing in the covenant to prevent their places being taken, in the intervals between the regular meetings, by representatives permanently resident at the seat of the league, who would tend to create a common point of view, and could consult and act together in an emergency. The pressure of important matters requiring decision

is likely to make some such permanent body necessary, for the next few years at least.

The fact that for the decisions of the Council, as of the Assembly, unanimity is ordinarily required, is not likely to be a serious obstacle in practice. Granted the desire to agree, which the conception of the league demands, it is believed that agreement will be reached, or at least that the minority will acquiesce. There would be little practical advantage, and a good deal of danger, in allowing the majority of the Council to vote down one of the great Powers. An important exception to the rule of unanimity is made by the clause in Article XV providing that, in the case of disputes submitted to the Council, the consent of the parties is not required to make its recommendations valid.

The second paragraph of Article IV allows for the admission of Germany and Russia to the Council when they have established themselves as Great Powers that can be trusted to honor their obligations, and may also encourage small Powers to federate or otherwise group themselves for joint permanent representation on the Council. Provision is made for securing that such increase in the permanent membership of the Council shall not swamp the representatives of the small Powers, but no fixed proportion between the numbers of the Powers in each category is laid down.

The interests of the small Powers are further safeguarded by the fifth paragraph of Article IV. Seeing that decisions of the Council must be unanimous, the right to sit "as a member" gives the state concerned a right of veto in all matters specially interesting it, except in the settlement of disputes to which it is a party. The objection that this provision will paralyze the efforts of the Council does not seem valid, as it is most unlikely that the veto would be exercised except in extremely vital matters.

The relations between the Assembly and the Council are purposely left undefined, as it is held undesirable to limit the competence of either. Cases will arise when a meeting of the Assembly would be inconvenient, and the Council should not therefore be bound to wait on its approval. Apart from the probability that the representatives of states on the Council will also sit in the Assembly, a link between the two bodies is supplied by the Permanent Secretariat, or new international civil service.

This organization has immense possibilities of usefulness, and a very

wide field will be open for the energy and initiative of the first Secretary-General. One of the most important of his duties will be the collection, sifting, and distribution of information from all parts of the world. A reliable supply of facts and statistics will in itself be a powerful aid to peace. Nor can the value be exaggerated of the continuous collaboration of experts and officials in matters tending to emphasize the unity, rather than the diversity of national interests.

*The Prevention of War*

Articles VIII-XVII, forming the central and principal portion of the covenant, contain the provisions designed to secure international confidence and the avoidance of war, and the obligations which the members of the league accept to this end. They comprise:

(1) Limitation of armaments.
(2) A mutual guarantee of territory and independence.
(3) An admission that any circumstance which threatens international peace is an international interest.
(4) An agreement not to go to war till a peaceful settlement of a dispute has been tried.
(5) Machinery for securing a peaceful settlement, with provision for publicity.
(6) The sanctions to be employed to punish a breach of the agreement in (4).
(7) Similar provisions for settling disputes where states not members of the league are concerned.

All these provisions are new, and together they mark an enormously important advance in international relations.

Article VIII makes plain that there is to be no dictation by the Council or anyone else as to the size of national forces. The Council is merely to formulate plans, which the governments are free to accept or reject. Once accepted, the members agree not to exceed them. The formulation and acceptance of such plans may be expected to take shape in a general Disarmament Convention, supplementary to the covenant.

The interchange of information stipulated for in the last paragraph of the article will, no doubt, be effected through the commission mentioned in Article IX. The suggestion that this commission might be given a general power of inspection and supervision, in

order to insure the obseravnce of Article VIII, was rejected for several reasons. In the first place, such a power would not be tolerated by many national states at the present day, but would cause friction and hostility to the idea of the league; nor, in fact, is it in harmony with the assumption of mutual good faith on which the league is founded, seeing that the members agree to exchange full and frank information; nor, finally, would it really be of practical use. Preparations for war on a large scale cannot be concealed, while no inspection could hope to discover such really important secrets as new gases and explosives and other inventions of detail. The experience of our own Factory Acts shows what an army of officials is required to make inspection efficient, and how much may escape observation even then. In any case, the league would certainly receive no better information on such points of detail from a commission than that obtained through their ordinary intelligence services by the several states.

Nor can the commission fill the rôle of an International General Staff. The function of a general staff is preparation for war, and the latter requires the envisagement of a definite enemy. It would plainly be impossible for British officers to take part in concerting plans, however hypothetical, against their own country, with any semblance of reality; and all the members of a staff must work together with complete confidence. It is further evident that no state would communicate to the nationals of its potential enemies the information as to its own strategic plans necessary for a concerted scheme of defense. The most that can be done in this direction by the commission is to collect non-confidential information of military value, and possibly to work out certain transit questions of a special character.

In Article X the word "external" shows that the league cannot be used as a Holy Alliance to suppress national or other movements within the boundaries of the member states, but only to prevent forcible annexation from without.

It is important that this article should be read with Articles XI and XIX, which make it plain that the covenant is not intended to stamp the new territorial settlement as sacred and unalterable for all time, but, on the contrary, to provide machinery for the progressive regulation of international affairs in accordance with the needs of the future. The absence of such machinery, and the consequent survival of treaties long after they had become out of date, led to

many of the quarrels of the past; so that these articles may be said to inaugurate a new international order, which should eliminate, so far as possible, one of the principal causes of war.

Articles XII-XVI contain the machinery for the peaceful settlement of disputes, and the requisite obligations and sanctions, the whole hingeing on the cardinal agreement that a state which goes to war without submitting its ground of quarrel to arbitrators or to the Council, or without waiting till three months after award of the former or the recommendation of the latter, or which goes to war in defiance of such award or recommendation (if the latter is agreed to by all members of the Council not parties to the dispute), thereby commits an act of war against all the other members of the league, which will immediately break off all relations with it and resort, if necessary, to armed force.

The result is that private war is only contemplated as possible in cases when the Council fails to make a unanimous report, or when (the dispute having been referred to the Assembly) there is lacking the requisite agreement between all the members of the Council and a majority of the other states. In the event of a state failing to carry out the terms of an arbitral award, without actually resorting to war, it is left to the Council to consider what steps should be taken to give effect to the award; no such provision is made in the case of failure to carry out a unanimous recommendation by the Council, but it may be presumed that the latter would bring pressure of some kind to bear.

In this, as in other cases, not the least important part of the pressure will be supplied by the publicity stipulated for in the procedure of settlement. The obscure issues from which international quarrels arise will be dragged out into the light of day, and the creation of an informed public opinion made possible.

Article XIII, while not admitting the principle of compulsory arbitration in any class of disputes, to some extent recognizes the distinction evolved in recent years between justiciable and non-justiciable causes, by declaring that in certain large classes of disputes recourse to arbitration is *prima facie* desirable.

The Permanent Court of Justice, to be set up under Article XIV, is essential for any real progress in international law. As things now stand, the political rather than the judicial aspect of the settlement of disputes is prominent in the covenant, but "political" settle-

ments can never be entirely satisfactory or just. Ultimately, and in the long run, the only alternative to war is law, and for the enthronement of law there is required such a continuous development of international jurisprudence, at present in its infancy, as can only be supplied by the progressive judgments of a permanent court working out its own traditions. Isolated instances of arbitration, however successful, can never result to the same extent in establishing the reign of law.

Under Article XV a dispute referred to the Council can be dealt with by it in several ways:

(1) The Council can keep the matter in its own hands, as it is certain to do with any essentially political question in which a powerful state feels itself closely interested.

(2) It can submit any dispute of a legal nature for the opinion of the Permanent Court, though in this case the finding of the court will have no force till endorsed by the Council.

(3) While keeping the matter in its own hands, the Council can refer single points for judicial opinion.

(4) There is nothing to prevent the Council from referring any matter to a committee, or to prevent such a committee from being a standing body. An opening is left, therefore, for the reference of suitable issues to such non-political bodies as the "Commissions of Conciliation," which are desired in many quarters. The reports of such committees would, of course, require the approval of the Council to give them authority, but the covenant leaves wide room for development in this direction.

(5) The Council may at any time refer a dispute to the Assembly. The procedure suggested under (2) (3) and (4) will then be open to the Assembly.

It has been already pointed out that, in the settlement of disputes under this article, the consent of the parties themselves is not necessary to give validity to the recommendations of the Council. This important provision removes any inconveniences that might arise in this connection from the right (see Article IV) of every Power to sit as member of the Council during the discussion of matters specially affecting it. We may expect that any Power claiming this right

in the case of a dispute will be given the option of declaring itself a party to the dispute or not. If it declares itself a party, it will lose its right of veto; if not, it will be taken to disinterest itself in the question, and will not be entitled to sit on the Council.

The sanctions of Article XVI, with the exception of the last paragraph, apply only to breaches of the covenant involving a resort to war. In the first instance, it is left to individual states to decide whether or not such a breach has occurred and an act of war against the league been thereby committed. To wait for the pronouncement of a court of justice or even of the Council would mean delay, and delay at this crisis might be fatal. Any state, therefore, is justified in such a case in breaking off relations with the offending state on its own initiative, but it is probable, in fact, that the smaller states, unless directly attacked, will wait to see what decision is taken by the great Powers or by the Council, which is bound to meet as soon as possible, and is certain to do so within a few hours. It is the duty of the Council, with the help of its military, naval and air advisers, to recommend what effective force each member of the league shall supply; for this purpose, each member from which a contribution is required has the right to attend the Council, with power to veto, during the consideration of its particular case. The several contingents will therefore be settled by agreement, as is indeed necessary if the spirit of the covenant is to be preserved, and if joint action is to be efficacious. But it is desirable at this point to meet the objection that under such conditions the league will always be late, and consequently offers no safeguard against sudden aggression.

It is true that, in default of a strong international striking force, ready for instant action in all parts of the world, the members of the league must make their own arrangements for immediate self-defense against any force that could be suddenly concentrated against them, relying on such understandings as they have come to with their neighbors previously for this purpose. There is nothing in the covenant (see Article XXI) to forbid defensive conventions between states, so long as they are really and solely defensive, and their contents are made public. They will, in fact, be welcomed, in so far as they tend to preserve the peace of the world.

To meet the first shock of sudden aggression, therefore, states must rely on their own resistance and the aid of their neighbors. But where, as in the case of the moratorium being observed, the aggres-

sion is not sudden, it is certain that those Powers which suspect a breach of the covenant will have consulted together unofficially to decide on precautionary measures and to concert plans to be immediately put into force if the breach of the covenant takes place. In this event these meetings of the representatives of certain Powers will develop into the Supreme War Council of the league, advised by a joint staff. Some reasons why this staff must be an *ad hoc* body, and not a permanent one, have been stated under Article VIII.

The last paragraph of Article XVI is intended to meet the case of a state which, after violating its covenants, attempts to retain its position on the Assembly and Council.

Article XVII asserts the claim of the league that no state, whether a member of the league or not, has the right to disturb the peace of the world till peaceful methods of settlement have been tried. As in early English law any act of violence, wherever committed, came to be regarded as a breach of the King's peace, so any and every sudden act of war is henceforward a breach of the peace of the league, which will exact due reparation.

### *Treaties and Understandings*

Articles XVIII-XXI describe the new conditions which must govern international agreements if friendship and mutual confidence between peoples are to prevail; the first three provide that all treaties shall be (1) public, (2) liable to reconsideration at the instance of the Assembly, and (3) consonant with the terms of the covenant. These provisions are of the very first importance.

Article XVIII makes registration, and not publication, the condition for the validity of treaties, for practical reasons, since experience shows that the number of new international agreements continually being made is likely to be so great that instant publication may not be possible; but it is the duty of the Secretariat to publish all treaties as soon as this can be done.

Article XIX should be read together with Article XI.

Article XXI makes it clear that the covenant is not intended to abrogate or weaken any other agreements, so long as they are consistent with its own terms, into which the members of the league may have entered, or may enter hereafter, for the further assurance of peace. Such agreements would include special treaties for compulsory arbitration, and military conventions that are genuinely de-

fensive. The Monroe Doctrine and similar understandings are put in the same category. They have shown themselves in history to be not instruments of national ambition, but guarantees of peace.

The origin of the Monroe Doctrine is well known. It was proclaimed in 1823 to prevent America becoming a theater for the intrigues of European absolutism. At first a principle of American foreign policy, it has become an international understanding, and it is not illegitimate for the people of the United States to ask that the covenant should recognize this fact. In its essence it is consistent with the spirit of the covenant, and indeed the principles of the league, as expressed in Article X, represent the extension to the whole world of the principles of the doctrine; while, should any dispute as to the meaning of the latter ever arise between American and European Powers, the league is there to settle it.

### *The Functions of the League in Peace*

Articles XXII-XXV cover the greater part of the ordinary peace-time activities of the league.

Article XXII introduces the principle, with reference to the late German colonies and territories of the Ottoman Empire, that countries as yet incapable of standing alone should be administered for the benefit of the inhabitants by selected states, in the name, and on behalf, of the league, the latter exercising a general supervision. The safeguards which enlightened public opinion demands will in each case be inserted in the text of the actual convention conferring the mandate. No provision is made in the covenant for the extension of such safeguards to the other similar dependencies of the members of the league, but it may be hoped that the maintenance of a high standard of administration in the mandate territories will react favorably wherever a lower standard now exists, and the mandatory principle may prove to be capable of wide application.

The saving clause at the beginning of Article XXIII makes it clear that the undertakings following do not bind the members of the league further than they are bound by existing or future conventions supplementary to the covenant.

Undertaking (*a*) throws the ægis of the league over the Labor Convention, which itself provides that membership of the league shall carry with it membership in the new permanent labor organization; (*b*) applies to territories not covered by Article XXII; (*d*) refers

to the arms traffic with uncivilized and semi-civilized countries. The matters specially mentioned in this article are to be taken merely as instances of the many questions in which the league is interested. Conventions relating to some of these, such as Freedom of Transit and Ports, Waterways and Railways, are now being prepared; with regard to a large number of others similar conventions may be expected in the future.

Article XXIV is of great importance, as it enlarges the sphere of usefulness of the Secretariat of the league to an indefinite degree. The covenant has laid the foundations on which the statesmen and peoples of the future may build up a vast structure of peaceful international coöperation.

*Amendment of the Covenant*

The provisions of Article XXVI facilitate the adoption of amendments to the covenant, seeing that all ordinary decisions of the Assembly have to be unanimous.

The second paragraph was inserted to meet the difficulties of certain states which might fail to secure the assent of their proper constitutional authorities to an amendment agreed to by the Council and the majority of the Assembly. They are now given the option of accepting the amendment or withdrawing from the league; but there is little doubt that, if the league becomes an institution of real value, the choice will be made in favor of accepting proposals that already command such wide assent.

It is the facility of amendment insured by this article, and the absence of restrictions on the activities of the Assembly, the Council and the Secretariat, which made the constitution of the league flexible and elastic, and go far to compensate for the omissions and defects from which no instrument can be free that represents the fusion of so many and various currents of thought and interest.

## JOINT RESOLUTION DECLARING THE WAR AT AN END [1]

*Passed by Congress May* 15, 1920; *vetoed by the President May* 27, 1920

SEC. 1.—That the joint resolution of Congress passed April 6, 1917, declaring a state of war to exist between the Imperial German Government and the Government and people of the United States, and making provisions to prosecute the same, be, and the same is hereby, repealed, and said state of war is hereby declared at an end: ***Provided, however,*** That all property of the Imperial German Government, or its successor or successors, and of all German nationals which was, on April 6, 1917, in or has since that date come into the possession or under control of the Government of the United States or of any of its officers, agents, or employes, from any source or by any agency whatsoever, shall be retained by the United States and no disposition thereof made, except as shall specifically be hereafter provided by Congress, until such time as the German Government has, by treaty with the United States, ratification whereof is to be made by and with the advice and consent of the Senate, made suitable provisions for the satisfaction of all claims against the German Government of all persons, wheresoever domiciled, who owe permanent allegiance to the United States, whether such persons have suffered, through the acts of the German Government or its agents since July 31, 1914, loss, damage, or injury to their persons or property, directly or indirectly, through the ownership of shares of stock in German, American, or other corporations, or have suffered damage directly in consequence of hostilities or of any operations of war, or otherwise and until the German Government has given further undertakings and made provisions by treaty, to be ratified by and with the advice and consent of the Senate, for granting to persons owing permanent allegiance to the United States, most favored nation treatment, whether the same be national or otherwise, in all matters affecting residence, business, profession, trade, navigation, commerce, and industrial property rights, and confirming to the United States all fines, forfeitures, penalties, and seizures imposed or made by the United States during the war, whether in respect to the property of the German Government

[1] *Congressional Record*, May 15, 1920.

or German nationals, and waiving any pecuniary claim based on events which occurred at any time before the coming into force of such treaty, any existing treaty between the United States and Germany to the contrary notwithstanding.

SEC. 2.—That in the interpretation of any provision relating to the date of the termination of the present war or of the present or existing emergency in any acts of Congress, joint resolutions, or proclamations of the President containing provisions contingent upon the date of the termination of the war or of the present or existing emergency, the date when this resolution becomes effective shall be construed and treated as the date of the termination of the war or of the present or existing emergency, notwithstanding any provision in any act of Congress or joint resolution providing any other mode of determining the date of the termination of the war or of the present or existing emergency.

SEC. 3.—That until by treaty or act or joint resolution of Congress it shall be determined otherwise, the United States, although it has not ratified the Treaty of Versailles, does not waive any of the rights, privileges, indemnities, reparations, or advantages to which it and its nationals have become entitled under the terms of the armistice signed November 11, 1918, or any extensions or modifications thereof or which under the Treaty of Versailles have been stipulated for its benefit as one of the Principal Allied and Associated Powers and to which it is entitled.

SEC. 4.—That the joint resolution of Congress, approved December 7, 1917, declaring that a state of war exists between the Imperial and Royal Austro-Hungarian Government and the Government and the people of the United States and making provisions to prosecute the same, be, and the same is hereby, repealed, and said state of war is hereby declared at an end, and the President is hereby requested immediately to open negotiations with the successor or successors of said government for the purpose of establishing fully friendly relations and commercial intercourse between the United States and the Governments and peoples of Austria and Hungary.

# CHRONICLE OF INTERNATIONAL EVENTS

## WITH REFERENCES

Abbreviations: *B.*, boletin, bulletin, bollettino; *Bundesbl.*, Switzerland, Bundesblatt; *Cmd.*, Great Britain, Parliamentary Papers; *Commerce Reports*, U. S. Commerce reports; *Cong. Rec.*, Congressional Record; *Costa Rica, Ga.*, La Gaceta; *Covenant*, The Covenant (London); *Cur. Hist.*, Current History (New York Times); *D. G.*, Diario do Governo (Portugal); *D. O.*, Diario oficial (Brazil); *E. G.*, Eidgenossische gesetzblatt (Switzerland); *Edin. Rev.*, Edinburgh Review; *Evening Star* (Washington); *Figaro*, Le Figaro (Paris); *G. B. Treaty series*, Great Britain, Treaty series; *Ga. de Madrid*, Gaceta de Madrid; *G. U.*, Gazetta Ufficiale (Italy); *Guatemalteco*, El Guatemalteco; International High Commission; *J. O.*, Journal officiel (France); *The League*, The League (London); *League of nations, O. J.*, League of nations, Official Journal; *Lond. Ga.*, London Gazette; *Monit.*, Moniteur Belge; *Nation* (*N. Y.*); *N. Y. Times*, New York Times; *Naval Inst. Proc.*, U. S. Naval Institute Proceedings; *P. A. U.*, Pan-American Union Bulletin; *Press Notice*, U. S. State Dept. Press Notice; *Proclamation*, U. S. State Dept. Proclamation; *Rev. int. de la Croix-Rouge*, Revue international de la Croix-Rouge; *Staats*, Netherlands Staatsblad; *Temps*, Le Temps (Paris); *Times*, The Times (London); *Wash. Post*, Washington Post.

*October, 1919.*

13 International Air Navigation Convention. Agreed to by Allied and Associated Powers subject to certain reservations. French and English texts *66th Cong.* S. Doc. 91. Signed by principal allied powers and sixteen other nations. Delay of six months was provided for the adhesion of other countries. On April 12 this delay was extended to June 1. *N. Y. Times*, June 2, 1920, p. 17.

20 Belgium—Great Britain. Agreement respecting boundaries in East Africa signed Feb. 3, 1915, was ratified by both countries at London. *G. B. Treaty series*, 1920, No. 2 (*Cmd.* 517).

29-*November* 13 Paraguay. House voted on October 29 and Senate on November 13 to join the League of Nations. *N. Y. Times*, March 3, 1920.

*November, 1919.*

13 Bolivia—Colombia. General arbitration treaty concluded. *P. A. U.*, March, 1920, *50*: 346.

14 CHILE. Notification of adhesion to League of Nations on November 14 received at State Department on March 2. *N. Y. Times,* March 3, 1920, p. 2.

21 PERSIA. Adhered to League of Nations. *League of Nations, O. J.,* February 20, 1920, p. 15.

27 BULGARIA—GREECE. Convention providing for free emigration of racial, religious or linguistic minorities, signed at Neuilly-sur-Seine. (*Cmd.* 589.)

*December, 1919.*

5 SERB-CROAT-SLOVENE STATE. Declared accession to treaty of peace with Austria, treaty with Allied Governments, and agreements with regard to Italian reparation payments and contributions to the cost of liberation of territories of the former Austro-Hungarian Empire. *G. B. Treaty series,* 1920, No. 8. (*Cmd.* 638.)

8 AUSTRIA-HUNGARY. Allied Governments signed declaration modifying agreement of September 10, 1919, between Allied and Associated Powers with regard to cost of liberation of the territories of the former Austro-Hungarian monarchy. *G. B. Treaty series,* 1920, No. 7. (*Cmd.* 637.)

8 ITALIAN REPARATION PAYMENTS. Allied Governments signed declaration modifying agreement of September 10, 1919, between the Allied and Associated Powers. *G. B. Treaty series,* 1920, No. 9. (*Cmd.* 639.)

9-*April* 26, 1920. ADRIATIC QUESTION. Joint British, French and American memorandum of the 9th December, 1919; telegram from Earl Curzon of Kedleston to Sir Eyre Crowe of the 8th December, recording an interview with Signor Scialoja; telegram from Sir Eyre Crowe to Earl Curzon of Kedleston of the 9th December; Italian memorandum of the 6th January, 1920; Franco-British proposals of the 9th January; Italian memorandum of the 10th January; revised proposals made by the British and French prime ministers to the Italian prime minister, accepted by the latter and handed to the Serb-Croat-Slovene delegation on the 14th January; memorandum of Serb-Croat-Slovene Government of the 20th January; inquiry of the United States Government of the 19th January; note of Mr. Lloyd George and M. Millerand of the 23rd January;

memorandum of Serb-Croat-Slovene Government of the 28th January; President Wilson's note of the 10th February; reply of Mr. Lloyd George and M. Millerand of the 17th February; President Wilson's note of the 24th February; reply of Mr. Lloyd George and M. Millerand of the 26th February. *Cmd.* 521. President Wilson's reply to memorandum of February 26. *N. Y. Times,* March 8, 1920, p. 1. Italian Government notified d'Annunzio that it would accept Wilson's project for the settlement of the Adriatic question. *N. Y. Times,* April 2, 1920, p. 4. Supreme Council at San Remo decided on April 26th to allow the question to remain in negotiation between the Italian and Jugoslav Governments. *N. Y. Times,* April 27, 1920, p. 2.

9 NORWAY—PORTUGAL. Commercial treaty of December 31, 1895, amended April 11, 1903, to take effect December 13, 1920, denounced by Norway. *D. G.,* January 7, 1920, Series I, p. 29.

*January, 1920.*

2 GERMAN-POLISH CONFERENCE. Held at Paris to consider questions of administration of the regions ceded to Poland by Germany. *Figaro,* January 3, 1920, p. 1.

2 SWITZERLAND. Correspondence between Supreme Council and Swiss Federal Council on subject of Swiss neutrality under the League of Nations made public. *The League,* February, 1920, *2*: 201.

6 PLEBISCITE ZONES.—Notes exchanged between Supreme Council and German delegation regarding number of troop effectives destined for territories in which plebiscites are to be held. *Temps,* January 7, 1920, p. 4.

6-*February* 25. INTERNATIONAL UNION FOR CHILD-SAVING. The Union International de Secours aux Enfants, organized in Geneva, January 6-8, under the patronage of the Red Cross International Committee, held a congress in Geneva, February 25-27. *Rev. int. de la Croix-Rouge,* January and March, 1920, *2*: 38, 276.

7-*June* 4. HUNGARIAN PEACE TREATY. Hungarian peace delegation arrived in Paris on January 7th to receive the treaty which had been held for three months pending establishment of a representative government. Terms of peace were handed to Count

Apponyi on January 15th, and fifteen days were given for their consideration. *Current History,* February, 1920, *11 (pt. 2)*: 199. Request for extension of time for consideration was granted on January 31st, the limit being extended to February 12th. A second extension of time was granted to February 20th as a result of Hungary's request that Allies rewrite her peace treaty. *Current History,* March, 1920, *11 (pt. 2)*: 447. Partial revision of economic clauses was agreed to by Supreme Council on March 12th. *N. Y. Times,* March 13, 1920. Reply of Allies to objections of Hungarian envoys, delivered May 5th, gave ten days in which to accept or reject the treaty. *Temps,* May 7, 1920, p. 1; *Times,* May 7, 1920, p. 13. Allies notified that Hungary would accept and sign the treaty, *N. Y. Times,* May 22, 1920, p. 17. Treaty signed on June 4th in the Grand Trianon, Versailles. *N. Y. Times,* June 5, 1920, p. 17.

7 LAMMASCH. Heinrich Lammasch, international jurist, member of Hague Tribunal and representative of Austria at the Peace Conference, died at Salzburg, Austria. He was born in 1853. One of his best known works is *Das Völkerrecht nach dem kriege. Times,* January 8, 1920, p. 9.

8 PANAMA. Ratified peace treaty with Germany. *P. A. U.,* March, 1920, *50*: 346.

10 BELGIUM. Date proclaimed of sovereignty over former Prussian regions of Eupen and Malmedy. *Current History,* March, 1920, *11 (pt. 2)*: 440.

10 GERMAN PEACE TREATY, Versailles, June 28, 1919. Ratifications exchanged. *Temps,* January 11, 1920; *Monit.,* January 12-13, 1920. Promulgated by France. *J. O.,* January 11, 1920.

10 LEAGUE OF NATIONS. Neutral states of Argentina, Chile, Colombia, Denmark, Spain, Norway, Paraguay, Netherlands, Persia, Salvador, Sweden, Switzerland, and Venezuela invited to join the League within two months. *Temps,* January 13, 1920, p. 1.

10 PANAMA—UNITED STATES. International gold clearance fund convention signed. *International High Commission.*

10 POLISH TREATY, Versailles, June 28,1919. Promulgated by France, with text of treaty. *J. O.,* January 11, 1920, p. 514.

10-11 PRISONERS OF WAR. War prison committee began work of repatriating German prisoners. *Current History,* March, 1920, *11 (pt. 2)*: 404.

10 SCAPA FLOW REPARATIONS. Text of letter published, with M. Clémenceau handed to Baron von Lersner after exchange of ratifications. *Times,* January 12, 1920, p. 14.

10 SPAIN. Adhered to League of Nations. *League of Nations O. J.,* February, 1920, p. 16.

11 ALSACE-LORRAINE. President of France issued decree prescribing methods by which citizens might regain French nationality. *J. O.,* January 12, 1920, p. 550.

11 FRANCE—GERMANY. Diplomatic relations renewed. *Figaro.* January 13, 1920, p. 1.

11 RHINELAND HIGH COMMISSION. Entered upon its duties as representative of Allied Governments in occupied territory of Germany west of the Rhine and the bridge-heads. Headquarters at Coblenz. *Times,* January 13, 1920, p. 14.

13 ARGENTINE REPUBLIC. Declared formal adhesion to League of Nations. *Temps,* January 18, 1920, p. 1.

13 AZERBAIDJAN. Conceded *de facto* recognition by Supreme Council in the name of Allied Governments. *Figaro,* January 17, 1920, p. 1.

13 FRANCE—NICARAGUA. Treaty of commerce of January 27, 1902, abrogated by Nicaragua. France had denounced this treaty on September 10, 1918. *Ga. de Madrid,* January 15, 1920, p. 157.

13 GEORGIA. Conceded *de facto* recognition by Allied Governments. *Figaro,* January 17, 1920, p. 1.

13 GERMANY—GREAT BRITAIN. Trade relations resumed and United Kingdom import restrictions removed. *Cmd.* 512.

13 LEAGUE OF NATIONS. First meeting called by President Wilson. Text. *N. Y. Times,* January 14, 1920, p. 3.

14 HAITI—UNITED STATES. International gold clearance fund convention signed. *International High Commission.*

15-22 BALTIC CONFERENCE. Representatives of Finland, Esthonia, Latvia, Lithuania, and Poland met to form a plan of defensive alliance. *Temps,* January 26, 1920, p. 1.

15 INTERNATIONAL FINANCIAL CONFERENCE. Memorial signed by prominent bankers and business men, dealing with world's economic problem, was presented to the Governments of Great Britain, France, United States, Holland, Switzerland, Den-

mark, Norway and Sweden, proposing a conference of financial representatives of the countries concerned, including Germany and Austria. Text. *Times,* January 16, 1920, p. 12.

15-*April* 2. WILHELM II, EX-EMPEROR OF GERMANY. Allied note sent to Holland on January 15th, demanding extradition of the Kaiser. Text *Times,* January 19, 1920, p. 12; Holland's answer rejecting Allies' demands despatched January 22. *Temps,* January 25, 1920, p. 1; reply of council of premiers sent to Holland on February 14th intimating that Allies would consider favorably an offer from Holland to intern the ex-Kaiser and be responsible for his acts. *Current History,* March, 1920, *12 (pt. 2)*: 376; *Times,* February 17, 1920, p. 18. Reply of Dutch Government of March 5th to note of February 14th sent second refusal to comply with Allied demands. *Times,* March 6, 1920, p. 13; *N. Y. Times,* March 6, 1920, p. 3. Allies sent new note to Holland on April 1st, emphasizing responsibility which Dutch Government had assumed in guarding the Kaiser, stating that his internment at Doorn was not considered a satisfactory solution. *N. Y. Times,* April 2, 1920, p. 1.

16 BRAZIL—GERMANY. Ratification of Treaty of Versailles by Brazil deposited. *P. A. U.,* June, 1920, p. 681.

16-*May* 14. LEAGUE OF NATIONS. The Council held its first session in the French Foreign Office on January 16th. The second session was held in St. James's Palace, London, on February 11-13. *League of Nations, O. J.,* February-March, 1920. The third session was held in Paris on March 14th. *Temps,* March 15, 1920. The fourth session was held in Paris on April 11th. *Temps,* April 13th, p. 2. The fifth session was held in Rome on May 14th. *Temps,* May 14, 1920, p. 1.

16-*March* 12. RUSSIAN TRADE RELATIONS. Supreme Council issued communiqué on January 16th permitting exchange of goods through coöperative societies between Russia and Allied and neutral countries. *Times,* January 17, 1920, p. 10. Soviet Government on February 1st authorized Russian Central Cooperatives to enter into commercial relations with cooperatives and firms in western Europe, America, and other countries. *N. Y. Times,* February 2, 1920. Supreme Council issued state-

ment on February 24th of future policy toward Russia with a view to encourage trade. Text *N. Y. Times,* February 25, 1920, p. 1; *Times,* February 25, 1920, p. 16. President Wilson sent note to Allies requesting postponement of any Russian trading plan until American views on proposal were presented. *Wash. Post,* March 13, 1920, p. 1.

17-24 PAN-AMERICAN FINANCIAL CONFERENCE. Second conference held in Washington. *P. A. U.,* February, 1920, *50*: 125.

18. PERU. New constitution, passed by National Assembly on December 27, 1919, repealing the constitution of November 10, 1860, was promulgated. *P. A. U.,* April, 1920, p. 457.

19 SHANTUNG. Japan notified China that Japan, having succeeded to Germany's rights in Shantung on January 10th, was ready to negotiate with China for their return and for the retrocession of the leased territory. Text of offer. *Temps,* January 26, 1920, p. 2.

20 SUPREME COUNCIL OF THE PEACE CONFERENCE. Closed its long and historic services, transferring its functions to a council of ambassadors and a council of premiers. *Current History,* March, 1920, *11 (pt. 2)*: 384.

21 AUSTRIA—CZECHO-SLOVAKIA. Negotiations successfully concluded, relating to imports and exports, indebtedness, coal deliveries, sugar, etc. *Times,* January 21, 1920, p. 11.

22 GERMAN NATIONALS IN EGYPT. Order of King George V promulgated regarding property rights and interests. *Lond. Ga.,* February 3, 1920, p. 1389.

24 REPARATIONS COMMISSION. Organized. M. Jonnart, French delegate, elected president. *Figaro,* January 25, 1920, p. 1. Resigned, February 17; M. Raymond Poincare elected president. *Figaro,* February 23, 1920.

25-*April* 22. GERMAN WAR CRIMINALS. German proposal that persons accused under the treaty of violating the laws of war be tried at Leipzig was sent to Supreme Council on January 25th. On February 3d the list of accused was handed to Baron von Lersner, who declined to transmit it and resigned his post. An unofficial list was received in Berlin on February 4th. On February 7th, the Allies sent the official list to Premier Bauer, accompanied by a letter rejecting the proposal of January

25th that trial in German courts be substituted for trial before an international tribunal. On February 9th, Bauer issued a statement declaring extradition for trial was an impossibility and requesting some other arrangement. On February 13th, the Supreme Council replied to German note of January 25th, consenting to trial in German courts, reserving right to present evidence and review decisions. *Current History,* March, 1920, *12 (pt. 2)*: 373. Forty names of accused, selected from list to be tried by Germany. *Temps,* March 3, 1920, p. 1. Preliminary proceedings begun for trial by Supreme Court of Germany. Date of main trial has not been fixed. *N. Y. Times,* April 23, 1920, p. 3.

25 HUNGARY. National assembly elections held, with about 95% of votes cast for monarchical form of government. Council of Ambassadors issued announcement on February 2 that Allies would not permit restoration of Hapsburg monarchy. *Current History,* March, 1920, *11 (pt. 2)*: 449.

26 ARMENIA. Republic formally recognized by the United States Government. *Current History,* March, 1920, *11 (pt. 2)*: 495.

29 TACNA-ARICA QUESTION. Peru gave notice of intention to submit her various claims in the controversy to the League of Nations. *Current History,* April, 1920, *12*: 67.

30 POLAND—SOVIET RUSSIA. Offer of peace made to Poland by Soviet Government. *Times,* February 3, 1920, p. 13.

31 GREECE—SPAIN. Convention of commerce and navigation of September 23, 1903, will be tacitly extended every three months. *Ga. de Madrid,* February 3, 1920, p. 408.

31 LEAGUE OF NATIONS. Lord Grey's letter to London *Times* explained American opposition to unqualified acceptance of the League covenant. *Times,* January 31, 1920, p. 13.

31 PARAGUAY—UNITED STATES. Commercial treaty of October 20, 1919, ratified by U. S. Senate. Text *Cong. Rec.,* January 31, 1920, p. 2449.

*February, 1920.*

1 LEAGUE OF NATIONS. Scandinavian premiers and foreign ministers of Denmark, Norway and Sweden in conference at Copenhagen, decided to accept invitation to join the League of Nations. *Times,* February 2, 1920, p. 11.

2-15 ESTHONIA—SOVIET RUSSIA. Peace treaty signed at Dorpat in which Esthonia's independence was recognized. Text *Current History*, June, 1920, *12*: 400. Treaty approved by Esthonian Assembly. *Temps*, February 15, 1920, p. 4.

7-*March* 1. MONROE DOCTRINE. Request made public of Salvador's Minister of Foreign Affairs to State Department asking new definition of term in the light of Article XXI of the League Covenant. *Costa Rica Ga.*, January 13, 1920, p. 28; *N. Y. Times*, February 8, 1920, p. 1. Reply of March 1st quoted President Wilson's address of January 6, 1916, before the Pan-American Scientific Congress. *N. Y. Times*, March 2, 1920.

9 ASIA MINOR. Secret memorandum of August 8, 1917, from Balfour, British Secretary of Foreign Affairs, to the French Government, concerning final division of Asia Minor, was made public. *Current History*, March, 1920, *11 (pt. 2)*: 504.

9 FRANCE—GERMANY. France notified Germany that the following conventions, suspended during the war, were again put into effect: Article 2 of the trade mark convention of October 12, 1871; agreements of December 30, 1914, and March 24, 1914, concerning measurement of vessels; agreement of January 13, 1914, regarding frontier trade in alcohol and spirits; extradition conventions and reciprocity declarations with Anhalt, Baden, Bavaria, Bremen, Hamburg, Hesse-Darmstadt, Lippe-Detmold, Lubeck, Mecklenburg-Schwerin, Mecklenburg-Strelitz, Oldenburg, Prussia, Russ, Saxony, Saxe-Altenburg, Saxe-Coburg-Gotha, Saxe-Weimar, Waldeck, and Württemburg. *J. O.*, March 25, 1920, p. 4767.

9 GERMANY—GREAT BRITAIN. King George V issued decree that January 10, 1920, is official date of termination of war. *London Ga.*, February 10, 1920.

9 GREAT BRITAIN—UNITED STATES. British Order in Council promulgated in which certain provisions in United States copyright law of December 18, 1919, are agreed to. Text *London Ga.*, February 10, 1920, p. 1675.

9 INTERNATIONAL LABOR BUREAU. Moved from London to Paris. M. Albert Thomas was elected director-general on January 27. *Times*, February 9, 1920, p. 16.

9 LITHUANIA. Letter made public from United States Government to Lithuania refusing recognition of her independence. *N. Y. Times,* February 10, 1920, p. 17.

9 SPITZBERGEN INTERNATIONAL CONVENTION. Signed at Paris by representatives of the United States, Great Britain, Denmark, France, Italy, Japan, Norway, Netherlands, and Sweden, giving sovereignty to Norway. *Times,* February 10, 1920, p. 11. *Temps,* February 11, 1920, p. 1.

10-*March* 19. GERMAN PEACE TREATY, Versailles, June 28, 1919. Reported back to U. S. Senate from Committee on Foreign Relations, with the same reservations adopted in November, 1919. Debate resumed on February 16, proceeding almost daily until final action on March 19th, when the vote was 49 for ratification and 35 against, lacking the necessary two-thirds majority for ratification. *Cong. Rec.,* February 10 to March 19, 1920. For texts of reservations and vote upon each, *see this* JOURNAL, VOL. 14, Nos. 1-2, pp. 199 and 203.

10 SERB-CROAT-SLOVENE STATE. Peace treaty with Germany ratified. *J. O.,* March 13, 1920, p. 4138.

10-*May* 5. SLESVIG. Plebiscite vote in first zone, held February 10th, resulted in 75% Danish majority. The vote in second zone held March 14th (Flensburg District), resulted in Danish minority of about 28%. *Temps,* April 27, 1920, p. 1.

11-14 . MEXICO—UNITED STATES. Trade conference called by American Chamber of Commerce of Mexico was held in City of Mexico, with 200 delegates in attendance, many from the United States. *P. A. U.,* April, 1920, *50*: 442.

12 GREAT BRITAIN—SOVIET RUSSIA. Agreement signed at Copenhagen for exchange of British and Russian war prisoners. *Current History,* March, 1920, *11 (pt. 2)*: 404.

20 MEXICO—UNITED STATES. Request of the Mexican Government for permission to import arms and munitions from the United States was refused by the State Department. *N. Y. Times,* February 26, 1920, p. 8.

13-*March* 22. ROBERT LANSING, Secretary of State of the United States, resigned his portfolio. Bainbridge Colby, his successor, was confirmed on March 22, 1920. *Cong. Rec.,* February 14 and March 22, 1920.

15 BULGARIAN PEACE TREATY, Neuilly, November 27, 1919. Decree of ratification issued by King of Italy. *G. U.*, March 1, 1920, p. 639.

15-*May* 11. TURKISH PEACE TREATY. Premier Millerand announced decision of Allies to allow the Turks to keep the seat of government at Constantinople, on condition that the Dardanelles be placed under international control and that the Turkish army be reduced to a mere police force. A special memorandum from the Indian Privy Council voiced strong disapproval of people of India to decision. *Current History*, April, 1920, *12*: 103. Delegation of Moslems from India arrived in London to protest against rigorous conditions of peace which might have grave consequences for India. *Temps*, March 4, 1920, p. 1. New Armenian massacres prompted the Supreme Council to dispatch a note to Turkish Government containing drastic demands, including the military occupation of Constantinople with the support of an Allied fleet. On March 10th, the report of the Council's Commission to Constantinople was presented at London meeting. *Current History*, April, 1920, *12*: 103. Text of American note relating to Turkey made public. *Times*, April 1, 1920, p. 15. Turkish Treaty summary received in Washington, May 8. *N. Y. Times*, May 9, 1920, p. 9. Presented to Turkish envoys at 4 p.m. May 11th, in French Foreign Office. One month's time given for consideration. *Times*, May 12, 1920, p. 17. Official summary, *Temps*, May 12, 1920, p. 1. Turkish peace delegation sent note to Peace Conference asking further delay until July 11th to present answer to the Allies. *N. Y. Times*, May 31, 1920, p. 11.

16-27 INTERNATIONAL COURT OF JUSTICE. Conference of neutral states, called by Dutch Government to meet at The Hague to discuss formation of a permanent court of justice (in accordance with Art. XIV of the League covenant) was participated in by Norway, Sweden, Denmark, Switzerland and Holland. Holland was invited to transmit the plan agreed upon to the Secretary-General of the League of Nations for the use of the commission of the League which is to prepare a project for an international court. Chief points of program summarized. *N. Y. Times*, February 29, 1920, p. 6; *Times*, March 1, 1920, p. 13.

20 FRANCE—GREAT BRITAIN—SWITZERLAND. Provisional convention dealing with air traffic, signed by Switzerland. Comes into force March 1, 1920. *N. Y. Times,* February 21, 1920, p. 1.

24 JAPAN—SOVIET RUSSIA. Peace proposal to Japan. Text. *Times,* March 4, 1920, p. 13.

24 SOVIET RUSSIA. Renewed peace proposals sent to United States Government and other Allied and Associated Powers giving assurances of democratic government, guarantees in the form of economic and mining concessions, etc. Text *Wash. Post,* March 6, 1920, p. 5; *Nation* (N. Y.), March 13, 1920, *110*: 349.

27 SAAR BASIN COMMISSION. Issued proclamation that it had taken control of the region in name of League of Nations and would exercise all powers formerly belonging to German Empire, Prussia and Bavaria, and would fulfil requirements of peace treaty. *Temps,* February 28, 1920, p. 1.

27 SWEDEN—UNITED STATES. Proclamation of President Wilson put into effect on February 1, 1920, in our relations with Sweden, the copyright act of March 4, 1909. A decree was issued by the King of Sweden, on February 1, 1920, entitling citizens of the United States to benefits conferred by the new copyright laws of Sweden. *Proclamation* No. 1557.

28 CZECHO-SLOVAKIA. Constitution adopted. Approved by President Masaryk on March 5th. Summary. *Press notice,* March 15, 1920; *New Europe,* April 29, 1920, *15*: 61.

28 GREAT BRITAIN—UNITED STATES. Agreement entered into between naval authorities of the two countries on question of collisions at sea during war. Arbitration boards have been set up in London and in Washington to determine cases of collision which have arisen. *Times,* February 28, 1920, p. 13.

*March, 1920.*

1 FRANCE—SWITZERLAND. Provisional agreement of December, 1919, regulating air traffic came into force. *E. G.,* February 18, 1920, p. 103.

1 GREAT BRITAIN—SWITZERLAND. Provisional agreement of November 6, 1919, regulating air traffic came into force. *E. G.,* February 18, 1920, p. 109.

2-8 RED CROSS. General council of the League of Red Cross Societies met in its first session at Geneva, with 28 states represented. *Rev. int. de la Croix-Rouge,* May 15, 1920, *2*: 311.

2-*April* 17. REPARATIONS COMMISSION. Decree issued concerning demands for reparation. Text. *J. O.,* March 4, 1920, p. 3499. Decree modified. *J. O.,* April 21, 1920, p. 6211.

3 GERMANY—SOVIET RUSSIA. The German Minister of Foreign Affairs has decided to send three commissions to Russia: One to study the economic situation, a second, of physicians, to study the typhus, and a third to make a survey of the general political situation of the country. *Temps,* March 3, 1920, p. 1.

4 DENMARK. Joined League of Nations. *Current History,* May, 1920, *12*: 206; *Wash. Post,* March 5, 1920, p. 9.

4 GERMAN LOAN. Supreme Council decided to allow Germany to launch an internal loan, which would take precedence over any indemnity payments she is called upon to make. *Evening Star,* March 4, 1920.

4 SWEDEN. Accession voted to League of Nations. *Current History,* May, 1920, *12*: 206.

5 NORWAY. Voted accession to League of Nations. *Current History,* May, 1920, *12*: 206.

5-*May* 16. SWITZERLAND. Voted in favor of membership in League of Nations on March 5th. Definite decision deferred until after taking of plebiscite on May 16th. *Bundesbl.,* March 17, 1920, p. 483; *N. Y. Times,* March 7, 1920, p. 2. Referendum on May 16th gave 11½ cantonal votes for adherence to League and 10½ against it. Popular majority 100,000. *N. Y. Times,* May 17, 1920, p. 1.

8 CUBA. Ratified treaty with Germany. *J. O.,* March 10, 1920, p. 2.

8 SYRIA. Independence declared. Emir Feisal, son of the King of Hedjaz, proclaimed King of Syria at Damascus, on March 11th. *Current History,* April, 1920, *12*: 112.

8 WORLD ECONOMIC CONDITIONS. Memorandum issued by Supreme Council. Conclusions. *Cmd.* 646; *Wash. Post,* March 10, 1920, p. 1; *Edin. Rev.,* April, 1920, *231*: 401.

9 PERU. Ratified German Peace Treaty. *J. O.,* March 11, 1920, p. 12.

10 BAVARIA. Ministry of Foreign Affairs abolished as part of movement toward greater centralization at Berlin. *Press notice,* March 10, 1920.

10 EGYPT. Resolution proclaiming independence of Egypt adopted by legislative assembly. *Wash. Post,* March 11, 1920, p. 1.

10 FRANCE. Created office of verification and compensation to administer application of Part X (Economic Clauses) of Peace Treaty. *J. O.,* March 13, 1920, p. 4138.

10 GUATEMALA. Legislative assembly passed a decree authorizing President to negotiate plans for a union of Central American States. Text *Guatemalteco,* March 10, 1920, No. 63.

10 NETHERLANDS. Adhesion to League of Nations filed. *Temps,* March 7, 1920, p. 1.

10 SALVADOR. Ratified decree of March 5th providing adhesion to League of Nations. *Costa Rica Ga.,* March 18, 1920, p. 255; *P. A. U.,* June, 1920, p. 682.

12 BESSARABIA—ROUMANIA. Supreme Council decided in favor of reunion. Text *Times,* March 12, 1920, p. 15.

13-*April* 4. GERMANY. Junker counter-revolution on March 13th attempted overthrow of Ebert government. President Ebert left Berlin and established headquarters of the republican government at Stuttgart on March 15th. On March 13th, the Majority Socialist party issued a manifesto for a general strike. Wolfgang von Kapp proclaimed himself Imperial Chancellor and Prime Minister of Prussia. On the 14th the general strike proclaimed by President Ebert went into effect. This strike, together with lack of support for the new government, resulted in Kapp's resignation on March 17th, and the restoration of the Ebert government. In the meantime, the Communist "Spartacans" conducted an uprising throughout Germany, and especially in the industrial region east of the Rhine. On March 21st, President Ebert and the members of his government returned to Berlin and began vigorous measures to combat the revolt. *Current History,* April, 1920, *12*: 1. According to the Peace Treaty and a subsequent agreement of August 8, 1919, only 25,000 German government troops were permitted within the neutral zone east of the Rhine. The German

Government on March 17th requested Allied permission to dispatch her Reichswehr forces to the Ruhr district to suppress armed disorders following the Kapp *coup d'état* in Berlin. On March 23d, the French Government, acting on its own initiative, sent a note to the German Government stating that the entry of German troops into the prohibited Rhine area would constitute an infringement of Articles 43 and 44 of the Peace Treaty and could not be permitted. On April 4th, the German Government sent troops into Ruhr district and began an active offensive against the insurgent workers. French note of same date warned Germany that France would consider military measures. On April 6th, the peaceful occupation by France of the Rhine area was accomplished and martial law proclaimed. On April 8th, Germany supplemented her protest to Allies by formal appeal to League of Nations to intervene on behalf of Germany against France. British Government disavowed action of France. Belgium approved, offering troops to aid the occupation. After series of notes between France and Great Britain, an agreement was announced on April 4th, whereby France would take no further action without Allies' consent and would withdraw her troops as soon as Germans had evacuated forbidden area. Period for evacuation extended to May 10th. Further discussion reserved for San Remo conference on April 19th. *Current History*, May, 1920, *12*: 231. *See* San Remo Conference, April 19th to 26th.

13 Soviet Russia—United States. United States notified Supreme Council that it considered it impossible to establish diplomatic relations with the Soviets. *Temps*, March 14, 1920, p. 1.

13 Venezuela. Declared adhesion to League of Nations, completing list of thirteen states invited to accede to the Covenant. *Current History*, April, 1920, *12*: 66.

16 Canada. Ratified Bulgarian Peace Treaty. *Wash. Post*, March 17, 1920, p. 1.

16 Constantinople. Occupied by Allied forces. *N. Y. Times*, March 18, 1920, p. 1.

17-22 Chile—United States. Notes exchanged between Chilean Foreign Office and the American Ambassador on the subject of controversy between Bolivia and Peru with reference to the

port of Arica. Chile had been requested by the United States to use her efforts to prevent a conflict between Peru and Bolivia. Summary *Wash. Post,* March 27, 1920, p. 5.

19 CANADA—FRANCE. Canadian Government terminated the convention respecting commercial relations signed September 19, 1907, and the supplementary convention signed January 23, 1909, to take effect on June 19, 1920. *Lond. Ga.,* April 27, 1920, p. 4846.

19 JAPAN. Ratified German Peace Treaty; also treaty with Poland. *J. O.,* March 21, 1920, p. 4550.

21 GERMANY—ITALY. Article 299 of the Peace Treaty with Germany annulled all commercial treaties between Italy and Germany made on or before August 25, 1916. King Emmanuel issued decree excluding from such annulment contracts relating to transferred property, mortgages, mines and contracts between private individuals and the state, province, municipality or other juridical persons. *G. U.,* April 12, 1920, p. 1099.

21 HUNGARY. A kingdom, as the constitutional form of government, was proclaimed by an Order in Council. *Times,* March 24, 1920, p. 16.

21-*April* 28. POLAND—SOVIET RUSSIA. Peace conditions of the Soviet issued on March 21st. *Temps,* March 23, 1920, p. 1; *Current History,* May, 1920, *12*: 254. On April 2d, the Poles refused a Soviet proposal for an armistice on the entire battle front and a peace conference in Esthonia. *Naval Inst. Proc.,* May, 1920, *46*: 794. On April 28th the Poles began a new war on Russia, assisted by the Ukrainians, in an effort to regain territory annexed by Russia, to serve as a chain of buffer states. *Current History,* June, 1920, *12*: 454.

22 CHINA. Troops sent to northern frontier of China to prevent entrance of Russian Bolshevists. *Temps,* March 23, 1920, p. 4.

22 LEBANON (Asiatic Turkey). Independence proclaimed at Baalbek. *Press notice,* March 30, 1920.

25 FRANCE—GERMANY. French-German resolutions approved relative to application of Section IV of Part X of the Treaty of Versailles concerning property and private interests. *J. O.,* April 29, 1920, p. 6474.

26 ESTHONIA—LATVIA. Agreement reached on question of frontiers. Pending questions to be decided by a court of arbitration presided over by a British officer. *Times,* March 26, 1920, p. 13.

26 GUATEMALA. Appointment announced of a special mission to the Governments of El Salvador and Honduras for the purpose of initiating a Central American Union. *Guatemalteco,* March 5, 1920, p. 1.

28 BELGIUM—NETHERLANDS. Political or collective treaty drafted by the Commission of 14, in which the Powers of the Council of Five, together with Belgium and Holland, abrogate the clauses of the treaties of 1839 which impose and guarantee Belgian neutrality. Submitted to the Belgian Committee of Foreign Affairs and to the Cabinet. *Times,* March 31, 1920, p. 13.

28-*May* 25. BELGIUM—NETHERLANDS. Fluvial treaty, substitute for the treaty of 1839, drafted by the Belgian and Dutch delegations and submitted to the Belgian Committee of Foreign Affairs and to the Cabinet. It deals with the régime of the Scheldt and the Ghent-Terneuzen Canal and with the construction of new canals through Dutch territory. *Times,* March 31, 1920, p. 13. Negotiations suspended, May 26, 1920. *N. Y. Times,* May 26, 1920, p. 17.

28 MEXICO. Announced that Mexico would resume interest payments on its foreign debt of about $100,000,000, a third of which is held in the United States. *Naval Inst. Proc.,* May, 1920, *46*: 795.

29 ALBANIA. Declaration of independence. *Temps,* March 30, 1920, p. 1.

29 CHINA—SOVIET RUSSIA. Telegraphic message from Soviets, addressed to the people of China, promised to annul all treaties and renounce all privileges improperly acquired by the Tsar's government. *Times,* April 1, 1920, p. 15.

31 FIUME. Independence proclaimed by d'Annunzio. *Times,* April 4, 1920, p. 1.

*April, 1920.*

1-*June* 1. ARMENIA. Mandate offered to League of Nations by Supreme Council. *N. Y. Times,* April 2, 1920, p. 8; *Times,* April 1, 1920, p. 16. Publicly discussed on April 11th; text of Coun-

cil's reply rejecting mandate. *Current History*, May, 1920, *12*: 205, 328. Allied premiers decide to establish a free and independent republic. *N. Y. Times*, April 24, 1920. League of Nations council in memorandum to Supreme Council insisted that Powers should guard Armenia, sharing financial burden. Text *Times*, April 28, 1920, p. 15. Senate Res. 359 was sent to President Wilson on May 13th, requesting him to send a warship and force of marines to port of Batum to protect American lives and property in Armenia. *Cong. Rec.*, May 13, 1920, p. 7542. President Wilson, on May 22d, agreed to fix boundaries of new Armenia. *N. Y. Times*, May 23, 1920, p. 1. Mandate offered to United States by San Remo conference. On May 24th, President Wilson addressed a message to Congress advising and requesting that executive power be granted to accept mandate. Text *Cong. Rec.*, May 24, 1920, p. 8137. H. Res. 570 asking for information as to mandate for Armenia was introduced and referred to Committee on Foreign Affairs. *Cong. Rec.*, May 26, 1920, p. 8323. Senate Committee on Foreign Relations reported concurrent resolution (S. Con. Res. 27), declining to grant to the Executive the power to accept a mandate over Armenia. *Cong. Rec.*, May 27, 1920, p. 8334. Senate rejected President's recommendation on June 1st, by a vote of 62 to 12. An amendment providing for appointment of a commission to study rehabilitation of Armenia and providing for an American loan of $50,000,000 was also defeated by a vote of 41 to 34. *Cong. Rec.*, June 1, 1920, p. 8691.

1 GERMANY—SERBIA. Diplomatic relations renewed. *Times*, April 1, 1920, p. 15.

1-*May* 21. PEACE RESOLUTION IN U. S. CONGRESS. Joint resolution (H. J. Res. 327) terminating the state of war between the Imperial German Government and the United States, introduced into the House of Representatives and referred to Committee on Foreign Affairs on April 1st. Reported back with minority report on April 6th (H. Rept. 801). Passed House April 9th, and sent to the Senate. Referred to Foreign Relations Committee on April 12th. Reported with amendment providing for termination of war with Austria and Hungary also, on April 30th (S. Rept. 568). Passed Senate with vote

of 43 to 38 on May 15th. Adopted by House on May 21st by vote of 28 to 139 and sent to the President on May 24th. *Cong. Rec.*, April 1, 6, 9, 12, 30, May 15 and 21, 1920. Returned by the President on May 27th with veto message. *Cong. Rec.*, May 27, 1920, p. 8392. The House of Representatives on May 28th refused to pass the bill over the President's veto. *Cong. Rec.*, May 28, 1920, p. 8468.

1 RHINELAND HIGH COMMISSION. Ordinances and instructions of Interallied Commission published. *Cmd.* 591.

1 RUSSIAN COMMERCIAL MISSION. Arrived in Stockholm to negotiate mode of future commercial exchange with Scandinavian countries and the Entente Powers. *Times*, April 3, 1920, p. 9.

2 FRANCE—GERMANY. Regulations issued for procedure of Mixed Arbitration Tribunal, provided for in Article 304 of Treaty of Versailles. Text *J. O.*, April 20, 1920, p. 6174.

5 BOLIVIA—GREAT BRITAIN. Commercial treaty signed in La Paz, regarding false declarations of origin of goods shipped from one country to the other. *Commerce Reports*, June 12, 1920.

5 CHINESE CONSORTIUM. Japan informed State Department of its adhesion to arrangement under which bankers of United States, Great Britain, France and that country will enter a consortium for financing China. The plans contemplate a loan of $250,000,000 to China for improvement of Chinese finances and internal works, principally railways. *N. Y. Times*, April 6, 1920, p. 22.

7 ALBANIA. Independence recognized by Italy. *Current History*, May, 1920, *12*: 248.

7 NICARAGUA. Ratified German Peace Treaty. *Press notice*, April 7, 1920.

7 ROUMANIA. Ratified German Peace Treaty. *Times*, April 17, 1920, p. 13; *Temps*, April 18, 1920, p. 1.

8 DANZIG (Free City). Draft of constitution summarized. *Times*, April 20, 1920, p. 11.

8 PORTUGAL. Ratified German Peace Treaty and put it into force. *D. G.*, April 12, 1920, p. 576; *J. O.*, April 9, 1920, p. 5622.

10 ESTHONIA. Requested admission to League of Nations. *Temps*, April 11, 1920, p. 1.

10 GREAT BRITAIN—UNITED STATES. Proclamation issued by President Wilson put into force on February 2, 1920, the new

copyright law of December 18, 1919, in our relations with Great Britain. Text *Proclamation*, No. 1560.

10-*June* 1. MEXICO. Revolution began by secession of State of Sonora, followed by secession of all but three of the Mexican States. A provisional government was established April 23d with Governor de la Huerta as Supreme Commander. President Carranza became a refugee on May 17th and was killed on May 22d. General de la Huerta summoned Congress to meet in Mexico City on May 24th, for the purpose of appointing a provisional President of Mexico. On June 1st, he took the oath of office as provisional President. *N. Y. Times*, April 11-June 1, 1920.

11 BOLIVIA—CHINA. Commercial treaty signed. *Temps*, April 12, 1920, p. 1.

11 CUBA. Government decree issued for restitution of German property sequestered during the war, with exception of German ships seized in Cuban waters. *Temps*, April 12, 1920, p. 1.

14 ITALY—SOVIET RUSSIA. Convention signed at Copenhagen between a representative of the Russian cooperatives and the National League of Italian cooperatives concerning commercial exchanges. Exchanges with foreign countries to be centralized in the National Institute of Credit. *Temps*, April 16, 1920, p. 4.

15 LITHUANIA—SOVIET RUSSIA. Peace negotiations, agreed to on April 7th, began on April 15th. Independence of Lithuania granted. *Current History*, June, 1920, *12*:460; *Times*, May 24, 1920, p. 7.

15 MESOPOTAMIA. Mandate offered to Great Britain. *Naval Inst. Proc.*, June, 1920, p. 985.

16 LATVIA—SOVIET RUSSIA. Peace conference held. Summary of essential conditions of peace. *Times*, April 19, 1920, p. 11.

16 SOVIET RUSSIA. M. Krassin, head of Russian trade delegation at Copenhagen, declared that the Soviet Government formally refused to recognize debts contracted by the former government or the validity of concessions and industrial contracts granted to foreigners under the Tsarist régime. *Times*, April 17, 1920, p. 14. Sent telegram to Supreme Allied Council at

San Remo urging formal agreement with Allied Governments for resumption of trade with Russia and the Ukraine. *Times,* April 28, 1920, p. 16.

17 GERMAN SHIPS. Reparations Commission's note, regarding distribution of former German ships, received by State Department. *Press notice,* April 17, 1920.

17 GUATEMALA. President Cabrera deposed by National Assembly and Dr. Carlos Herrera named as President. *Current History,* May, 1920, *12*: 251.

17 INTERNATIONAL POLICE TREATY. Text made public of a treaty submitted for approval to Governments of Argentina, Brazil, Chile, Peru, Paraguay and Uruguay, which was drawn up at a recent convention of South American police. It provides that governments concerned shall inform one another of attempted or executed anarchistic deeds tending to alteration of social order. *Nation* (N. Y.), May 1, 1920, p. 605.

17 WORLD SOVIET REPUBLIC. Memorandum from original Soviet sources made public by U. S. State Department showing that the creation of a "World Soviet Republic" by international revolution is the object of the Communist Party, the Third International and the Russian Soviets. *Press notice,* April 17, 1920.

19-26 SAN REMO CONFERENCE. Inter-Allied Conference opened on April 19 for discussion of Turkish treaty, distribution of mandates in the Near East, the settlement of German indemnity questions, and trade with Russia, etc. Germany addressed three notes to the Conference requesting increase of Reichswehr troops to 200,000 men instead of 100,000 provided for by the terms of the Treaty of Versailles. *N. Y. Times,* April 22, 1920, p. 3; *Temps,* April 23, 1920, p. 4. Allied Powers issued a declaration to Germany at the close of the conference on April 26th, in which they declined to consider Germany's demand for increased army until she had begun to carry out the terms of the treaty. An invitation was extended to the German Chancellor to meet them at Spa on May 25th to discuss the question. *N. Y. Times,* April 27, 1920, p. 2; *Times,* April 27, 1920, p. 17.

20 FRANCE—GERMANY. Order issued extending time of presentation of demands for maintenance of pre-war contracts to June 1, 1920. *J. O.*, April 29, 1920, p. 6474.

20 GERMANY—SOVIET RUSSIA. Reciprocal repatriation of remaining war prisoners agreed upon. *N. Y. Times*, April 21, 1920, p. 3.

20 INTERNATIONAL FINANCIAL CONFERENCE. Called by League of Nations council to meet in Brussels the last of May. Text of invitation sent to 25 states. *Temps*, April 21, 1920, p. 4; *N. Y. Times*, April 21, 1920, p. 3. Postponed until July 5th or 6th to enable Allied and German Governments to present exact exposition of financial situation. *Temps*, May 23, 1920, p. 4.

21 AMERICAN LEAGUE. Advocated by President Baltazar Brum of Uruguay, on basis of absolute equality between all American nations. *Evening Star*, April 22, 1920.

21 FRANCE—SOVIET RUSSIA. Agreement signed concerning exchange of war prisoners. *Temps*, April 26, 1920, p. 1.

22 DANZIG—POLAND. Provisional economic convention signed at Danzig. Summary: *Commerce Reports*, June 17, 1920.

22 FRANCE—GREAT BRITAIN. Agreement signed relative to disposition of German merchant ships. *Temps*, April 23, 1920, p. 6.

22 UKRAINE. Application made for admission to League of Nations, accompanied by statement of historical and present status of Ukrainian people. *Times*, April 22, 1920, p. 15.

23 ARMENIA—UNITED STATES. Republic recognized as a *de facto* government by the United States. Recognition was accorded in January by France, Great Britain and Italy. *N. Y. Times*, April 25, 1920, p. 3.

23 CENTRAL EUROPE. Allied and Associated and neutral Powers met in first conference at Paris to draw up program for help and reconstruction. *Times*, April 26, 1920, p. 13.

23 POLAND—UKRAINE. Agreement reached concerning western frontier of Ukraine. *Temps*, April 26, 1920, p. 4; *Times*, May 4, 1920, p. 16.

24 CHILE—GREAT BRITAIN. Battleship *Canada* and three destroyers requisitioned by England in 1914 will be repurchased by Chile on the terms proposed by England. *Times*, April 29, 1920.

26 FRANCE—SWITZERLAND. Swiss Federal Council sent message to the Federal Assembly regarding the mutual declaration exchanged with France on June 11th, 1914, concerning relations between Switzerland and the French zone of the Moroccan Empire. *Bundesbl.*, April 28, 1920, p. 290.

26 JAPAN—SOVIET RUSSIA. Negotiations concluded, with Russian concessions to Japanese demands. *Times*, May 1, 1920, p. 13.

26 PALESTINE. Mandate given Great Britain. *Times*, April 27, 1920, p. 17.

28 ICELAND. Application made for membership in League of Nations. Georgia, San Marino and Luxemburg have also applied. *N. Y. Times*, April 28, 1920, p. 2.

29 PACT OF LONDON. Text of agreement between France, Russia, Great Britain and Italy signed at London April 26, 1915, made public. *Cmd.* 671; *Times*, April 30, 1920, p. 16.

29 TURKEY. Cilician Christians, Armenians, Greeks, Syrians, Chaldeans, Assyrians, and Jacobites have made collective protest to Supreme Council against return of their territory to Turkish rule. *Times*, April 29, 1920, p. 15.

*May, 1920.*

1 SOVIET RUSSIA. A third telegram was sent by League of Nations Council asking Soviet Government's attitude toward proposal to send League commission into Russia to study question of recognizing the government of Lenin and Trotzky. No reply received. Text. *N. Y. Times*, May 6, 1920, p. 17; *Times*, May 5, 1920, p. 15. On May 19th another telegram was sent to Moscow asking consideration before June 15th of the decision to impose conditions on the investigating commission of the League, failing which the Council would leave to the Soviet Government full responsibility for rejection of an offer designed to improve economic and international relations. *Wash. Post*, May 20, 1920, p. 1.

2 INTERNATIONAL ECONOMIC CONGRESS. Opened its first congress in Frankfort, with delegates from Switzerland, Holland, Denmark, Sweden, Finland, Austria, Czecho-Slovakia, Italy, France, Russia, and the United States. *Temps*, May 4, 1920, p. 4.

4 INTERNATIONAL CONVENTION FOR THE REGULATION OF AERIAL NAVIGATION. Final text issued. *Times,* May 5, 1920, p. 17.

4-6 INTERPARLIAMENTARY COMMERCIAL CONFERENCE. Held by members of European parliaments in Paris for consideration of commercial and financial questions. Adopted resolutions that international agreements should be reached with a view to remedying the exchange situation. *N. Y. Times,* May 7, 1920, p. 17; *Temps,* May 9, 1920, p. 1.

5 GERMANY. Sent memorandum to Reparations Commission asking delay in delivery of 350,000 tons of shipping, in order to avert economic collapse in Germany. *Times,* May 6, 1920, p. 16.

5 PAN-AMERICAN UNION. Dr. L. S. Rowe, chief of the Latin-American Division of the State Department, elected director-general, succeeding John Barrett, resigned. *Wash. Post,* May 6, 1920, p. 2.

6 FRANCE—ITALY. Reciprocal agreement concluded whereby Italian laborers are to be sent to French coal fields on condition that half the coal they produce shall be sold to Italy. Same principle is to be applied to iron ore and potash. *Times,* May 8, 1920, p. 15.

7 GERMAN COLONIES. Official communique issued by Supreme Council stated disposition of former German colonies. *Covenant,* April, 1920, p. 415.

7 SOVIET RUSSIA—TURKEY. Military convention said to have been concluded between Soviet Government of Russia and Turkish Nationalist organization. Summary of articles: *Times,* May 10, 1920, p. 12.

8 BELGIUM—NETHERLANDS. Exchange of ratifications of agreement concerning telegraphic relations, to go into effect May 15th. *Monit.,* May 14-15, 1920, p. 3741; *Staats.,* May 12, 1920, p. 1.

9 GEORGIA—SOVIET RUSSIA. Peace Treaty concluded, providing recognition of independence of Georgia, and non-interference by Russia in Georgia's international affairs. *Evening Star,* May 10, 1920.

10 CANADA—UNITED STATES. British Embassy announced that Canada would be represented in Washington by a resident minister, appointed by the King, who would assume charge of all imperial diplomatic relations with the United States in

the absence of the British Ambassador. *Current History,* June, 1920, *12:* 544.

11 France—Germany. Announcement made regarding location of office of Franco-German Arbitration Tribunal, hours of opening, form of requests, etc. *J. O.,* May 11, 1920, p. 7128.

11 German War Criminals. New note concerning names of 45 accused persons presented to Germany, omitted the names of the ex-Crown Prince, Von Hindenburg and Ludendorff. *Wash. Post,* May 12, 1920, p. 1.

13 Secret Treaties. Publication provided for in "League of Nations Journal," according to plans of the Secretary-General of the League. *N. Y. Times,* May 13, 1920, p. 6.

14 Finland—Soviet Russia. Russia offered to enter into negotiations with Finland with a view to concluding peace. *Temps,* May 15, 1920, p. 4.

14 Third International (Moscow). Adhered to by Socialist National Convention in New York. Dictatorship of the proletariat opposed. *N. Y. Times,* May 15, 1920, p. 3.

15 Fiume League Conference. Invitation issued by Gabriele d'Annunzio for conference at Fiume on May 15th to establish a League of Fiume, to include all peoples which Peace Conference put under the heel of other races. *Nation* (N. Y.), May 1, 1920, p. 605.

15 Hythe Conference. Discussion of French and English Premiers regarding German indemnity and method of liquidation of debts of Allies to one another. *Current History,* June, 1920, *12:* 383. Text of declaration issued at close of conference: *Temps,* May 17, 1920, p. 4.

15 International Régime of Rivers. Walker D. Hines appointed by President Wilson at request of Allies to arbitrate questions affecting navigation on Danube, Oder, Elbe, and other European rivers. Details of work made public. *Evening Star,* May 16, 1920.

16 Siberia—Soviet Russia. Republic of Siberia recognized by Soviet Government. *N. Y. Times,* May 19, 1920, p. 17.

18 League of Nations. Council of the League sent a message to President Wilson requesting him to convoke the League of Nations next November at Brussels. *N. Y. Times,* May 19, 1920, p. 11.

19 LEAGUE OF NATIONS. Advisory commission for military, naval and aerial matters has been created by League which will probably meet in London in June. *Press notice,* May 19, 1920.

20 GERMANY. First National Constitutional Assembly under the Republic, elected in January, 1919, adjourned. *Temps,* May 21, 1920, p. 4.

20 PERSIA—SOVIET RUSSIA. Soviet Commissary for Foreign Affairs sent note to Persian Government accepting offer to dispatch a mission to Russia and to resume diplomatic relations. *N. Y. Times,* May 23, 1920, p. 4.

21 PERSIA. Appealed to the League of Nations for protection against bolshevik aggression, following landing of bolshevik forces on Persian soil. Text: *Times,* May 29, 1920, p. 13.

21 VERKHNI UDINSK. New buffer state, consisting of all the territories east of Lake Baikal, including Kamchatka and Sakhalien, proclaimed. *N. Y. Times,* May 22, 1920, p. 3.

22 CHINA—JAPAN. China sent note to Japan on May 23d refusing to agree to Japan's proposal to negotiate a Shantung settlement, or to recognize the Versailles Treaty. *Times,* May 25, 1920, p. 9.

22 CZECHO-SLOVAKIA—GERMANY. Agreement concluded for an exchange of sugar from Czecho-Slovakia for wagons from Germany. *Temps,* May 23, 1920, p. 4.

22 GUATEMALA—UNITED STATES. International gold clearance fund convention ratified by executive decree. *Guatemalteco,* May 24, 1920, p. 1.

22 INTERNATIONAL ANTI-SLAVERY LEAGUE. Organized at Geneva for purpose of defending rights of natives or subject peoples before the League of Nations and the court of public opinion. Data will be gathered regarding peonage in South and Central America, the coolie system in Asia and forced labor of natives in Africa. *Evening Star,* May 23, 1920.

24 FRANCE—UNITED STATES. Note sent from U. S. State Department to French Government on the world oil crisis. *Evening Star,* May 24, 1920.

24 JUGOSLAVIA—HUNGARY. Jugoslavia notified State Department of intention to concentrate troops on Jugoslav-Hungarian border should Hungary fail to observe terms of treaty. *N. Y. Times,* May 25, 1920, p. 17.

25 CANADA—UNITED STATES. Treaty for protection of salmon of Frazier River system signed at Department of State. *Press notice,* May 25, 1920.

25 INTERNATIONAL CONGRESS OF PEACE SOCIETIES. Met at Basle for the first time since 1914, representatives of societies in England, France, United States, Germany, Austria, Italy, Belgium, Holland and Switzerland being present. The purpose of the meeting was to reorganize the international pacifist movement and to consider the League of Nations question. *N. Y. Times,* May 26, 1920, p. 2.

25 SPA CONFERENCE. Allies at San Remo conference invited Germany to send a representative to meet Allies on May 25th. *Temps,* April 27, 1920, p. 4. Proposal sent to Germany on May 22d to postpone date until June 21st. *Times,* May 26, 1920, p. 12.

26 AUSTRIAN PEACE TREATY, St. Germain, Sept. 10, 1919. Ratified by French Chamber of Deputies. *N. Y. Times,* May 27, 1920, p. 17.

26 BRAZIL—CZECHO-SLOVAKIA. Government of Czecho-Slovakia recognized by Brazil. *D. O.,* May 29, 1920.

26 BRAZIL—FINLAND. Government of Finland recognized by Brazil. *D. O.,* May 29, 1920.

26 BRAZIL—POLAND. Executive decree published in which Brazil recognized the Republic of Poland. *Press notice,* May 28, 1920.

26 DANZIG—POLAND. First of a series of treaty negotiations was held at Danzig in connection with Art. 104 of the Peace Treaty. *Times,* May 28, 1920, p. 11.

26 ECUADOR—UNITED STATES. International gold clearance fund convention signed. *Wash. Post,* May 27, 1920, p. 6.

27 INTERNATIONAL CONFERENCE ON HYDROGRAPHY. Report of meeting held in London, June 24, 1919, made public. All the Powers, except Germany, Austria, Russia and Turkey were represented. A permanent hydrographic bureau was urged by the conference and fifteen of the Powers have accepted the proposal. Summary of report: *Times,* May 27 and 29, 1920.

27 INTERNATIONAL LAW ASSOCIATION. Held 29th conference at Portsmouth, England. *Times,* May 17 and 31, 1920.

29 AUSTRIA—CHINA. Chinese Chamber of Representatives ratified Austrian Peace Treaty by vote of 203 to 1. *Temps,* May 29, 1920, p. 1.

## INTERNATIONAL CONVENTIONS

### Adhesions and Ratifications

AERIAL NAVIGATION. Paris, Oct. 13, 1919.
Ratification:
Portugal. April 15, 1920. *D. G.*, April 15, 1920, Ser. I, p. 590.
Signed (with reservations):
United States. May 31, 1920. *N. Y. Times*, June 2, 1920, p. 17.

COPYRIGHT UNION. Revision, Berlin, Nov. 13, 1908.
Adhesion:
Poland. Jan. 28, 1920. *Monit.*, April 15, 1920, p. 2848.
——— ——— Protocol, March 20, 1914.
Ratification:
Norway. Feb. 28, 1920. *J. O.*, April 23, 1920, p. 6286.
Sweden. Jan. 1, 1920. *G. B. Treaty Series*, 1919, No. 13 (*Cmd.* 452).

CUSTOMS TARIFFS PUBLICATION. Brussels, July 5, 1890.
Adhesion:
Czecho-Slovak Republic. May 2, 1920. *Monit.*, May 2-4, 1920, p. 3371.

GENEVA CONVENTION, AUG. 22, 1864. REVISIONS.
Adhesion:
Haiti. Dec. 1, 1919. *P. A. U.*, March, 1920, *50*: 346.

LETTERS, ETC., OF DECLARED VALUE. Rome, May 26, 1906.
Adhesion:
Iceland. Jan. 22, 1920. *Monit.*, Jan. 23, 1920, p. 606.

MONEY ORDERS. Rome, May 26, 1906.
Adhesion:
Iceland. Jan. 22 (?), 1920. *Monit.*, Jan. 23, 1920, p. 606.

PARCEL POST. Rome, May 26, 1906.
Adhesion:
Iceland. Jan. 22 (?), 1920. *Monit.*, Jan. 23, 1920, p. 606.

POSTAL SUBSCRIPTIONS TO NEWSPAPERS. Rome, May 26, 1906.
Adhesion:
Finland. Feb. 27, 1920. *D. G.*, April 21, 1920, Ser. I, p. 612.

PUBLIC HEALTH OFFICE. Rome, Dec. 9, 1907.
Adhesion:
Union of South Africa. April 15, 1920. *Monit.*, May 9, 1920, p. 3607.

"SERVICE DES RECOUVREMENTS." Rome, May 26, 1906.
Adhesion:
Iceland. Jan. 22 (?), 1920. *Monit.*, Jan. 23, 1920, p. 606.

TELEGRAPH. St. Petersburg, July 22, 1875. Revised, July 22, 1896. Supplement, Lisbon, June 11, 1908.
Adhesion:
Czecho-Slovak Republic. Jan. 10, 1920. *D. G.*, Feb. 12, 1920, Ser. I, p. 269.

TRADE-MARKS CONVENTION. Buenos Aires, Aug. 20, 1910.
Ratification:
Peru. April 14, 1920. *Press notice,* April 22, 1920.

UNIVERSAL POSTAL UNION. Rome, May 26, 1906.
Adhesion:
Iceland. Jan. 22 (?), 1920. *Monit.*, Jan. 23, 1920, p. 606.
Finland. April 15 (?), 1920. *J. O.*, April 15, 1920, p. 5986.

WHITE PHOSPHORUS IN MATCHES. Berne, Sept. 26, 1906.
Adhesion:
Sweden. April 10, 1920. *J. O.*, May 21, 1920, p. 7570.

M. ALICE MATTHEWS.

# PUBLIC DOCUMENTS RELATING TO INTERNATIONAL LAW

## GREAT BRITAIN [1]

Aliens Order, March 25, 1920. (St. R. & O. 1920, No. 558.) 4d.

———. Directions as to custody in connection with deportation orders, March 29, 1920. (St. R. & O. 1920, No. 488.) 2d.

Aliens restriction (amendment). 9 and 10 Geo. V. Ch. 92. 3d.

Arbitration conventions between the United Kingdom and Norway and Portugal, renewal of the. (Treaty series, 1920, No. 4.) 2d.

Belgian nationality law, Oct. 25, 1919. (Misc. No. 4, 1920.) 1½d.

Belgium, neutrality of. *Foreign Office.* 7d.

Belgian refugees. Report on the work undertaken by the British Government in the reception and care of. *Ministry of Health.* 1s. 8d.

Bulgaria. Treaty of peace between the Allied and Associated Powers and Bulgaria, and protocol. Signed, Nov. 27, 1919. (With map.) (Treaty series, 1920, No. 5.) 1s. 6½d.

China. Treaty of Peace Order in Council, Dec. 9, 1919. (St. R. & O. 1919, No. 2024.) 1½d.

Copyright. Order in Council, Feb. 9, 1920, further regulating copyright relations with the United States of America as regards works first published between Aug. 1, 1914, and the termination of the war. (St. R. & O. 1920, No. 257.) 1½d.

———. Order in Council, Nov. 25, 1919, amending order of June 24, 1912, regulating copyright relations with foreign countries of the Berne Copyright Union as regards Sweden. (St. R. & O. 1919, No. 1891.) 1½d.

East Africa. Agreement between United Kingdom and Belgium respecting boundaries in. Signed Feb. 3, 1915. (With maps.) (Treaty series, 1920, No. 2.) 4s. 5½d.

Economic conditions in Central Europe. (With maps.) Pt. I, Misc. 1920, No. 1, 3d; Pt. II, Misc. 1920, No. 6, 1s. 2½d.

[1] Parliamentary and official publications of Great Britain may be obtained for the amount noted from the Superintendent of Publications, H. M. Stationery Office, Imperial House, Kingsway, London, W. C. 2.

Economic conditions of the world. Declaration by the Supreme Council of the Peace Conference. (Cmd. 646.) 2d.

Egypt. Treaty of Peace Order in Council, Jan. 22, 1920. (St. R. & O. 1920, No. 190.) 1½d.

Freedom of the seas, historically treated. *Foreign Office.* 3s. 8d.

Greece and Bulgaria. Convention signed Nov. 27, 1919. (Misc. No. 3, 1920.) 2d.

Holland. Handbook prepared under direction of historical section. *Foreign Office.* 2s. 1½d

International Labor Conference. Draft conventions and recommendations adopted at its first meeting, Oct. 29–Nov., 1919. (French and English texts.) (Cmd. 627.) 7½d.

Italian reparation payments. Declaration modifying the agreement of Sept. 10, 1919, between the Allied and Associated Powers with regard to the. Signed at Paris, Dec. 8, 1919. (Treaty series, 1920, No. 9.) 1½d.

Italy. Agreement between France, Russia, Great Britain and. Signed at London, April 26, 1915. (Misc. No. 7, 1920.) 2d.

Liberation of territories of former Austro-Hungarian Monarchy. Declaration modifying agreement of Sept. 10, 1919, between the Allied and Associated Powers with regard to contributions to cost of. Signed Dec. 8, 1919. (Treaty series, 1920, No. 7.) 1½d.

Merchant shipping. Order in Council, Dec. 9, 1919, further postponing the coming into operation of the Merchant Shipping Convention Act, 1914, until July 1, 1920. (St. R. & O. 1920, No. 2042.) 1½d.

Patents, designs and trade-marks. Order in Council, Nov. 25, 1919, applying the provisions of Sec. 91 of the Patents and Designs Act, 1907, to Poland. (St. R. & O. 1919, No. 1900.) 1½d.

———. Order in Council, March 11, 1920, applying the provisions of Sec. 91 of the Patents and Designs Act, 1907, to Czecho-Slovakia. (St. R. & O. 1920, No. 575.) 1½d.

Peace Commission. Treaty between the United Kingdom and Chile for the establishment of a. Signed at Santiago, March 28, 1919. (Treaty series, 1920, No. 3.) 1½d.

Peace handbooks prepared under direction of the Historical Section of the Foreign Office:

Vol. I. No. 1. Foreign policy of Austria-Hungary. 2s. 8d.

No. 2. Bohemia and Moravia. 2s. 8d.

Vol. I. No. 3. Slovakia. 1s. 1½d.
No. 4. Austrian Silesia. 1s. 1½d.
No. 5. Bukovina. 1s. 1½d.
No. 6. Transylvania and the Banat. 2s. 1½d.
No. 7. Hungarian Ruthenia. 7d.

Vol. II. No. 8. Croatia-Slavonia and Fiume. 2s. 2d.
No. 9. Carniola, Carinthia and Styria. 1s. 7½d.
No. 10. The Austrian littoral. 2s. 2d.
No. 11. Dalmatia. 2s. 2d.
No. 12. Bosnia and Herzegovina. 2s. 2d.
No. 13. The Slovenes. 7d.
No. 14. The Jugo-Slav movement. 1s. 1½d.

Vol. V. No. 26. Belgium. 5s. 3d.
No. 27. Luxemburg and Limburg. 1s. 7½d.

Prisoners, exchange of. Treaty between His Majesty's Government and the Soviet Government of Russia. (Russia, No. 1, 1920.) 1½d.

Rhineland. Ordinances and instructions issued by the Inter-Allied Rhineland High Commission. With annexes. (Germany, No. 1, 1920.) 8d.

Roumania. Treaty between the principal Allied and Associated Powers and. Signed at Paris, Dec. 9, 1919. (Treaty series, 1920, No. 6.) 2d.

Serb-Croat-Slovene State. Declaration of accession to treaty of peace with Austria, the treaty between principal Allied and Associated Powers and the Serb-Croat-Slovene State; and the agreements with regard to the Italian reparation payments and the contributions to the cost of liberation of the territories of the former Austro-Hungarian Monarchy. Signed in Paris, Dec. 5, 1919. (Treaty series, 1920, No. 8.) 1½d.

Scheldt, Question of the. *Foreign Office.* 7d.

Supreme Economic Council. Monthly bulletin of statistics. No. 8 (figures to Feb. 10, 1920); No. 9 (figures to Mar. 10, 1920.) 1s. 1½d.

Treaties of peace (Austria and Bulgaria) bill, 1920. Note on. (Misc. No. 5, 1920.) 1½d.

Treaty series, 1919. Index to. (Treaty series, 1919, No. 21.) 1½d.

Versailles, Treaty of, 1919. Treaty of peace between Allied and

Associated Powers and Germany, June 28, 1919, index to the. (Treaty series, 1920, No. 1.) 8d.

———. Treaty of peace between the Allied and Associated Powers and Germany, the protocol annexed thereto, the agreement respecting the military occupation of the territories of the Rhine, and treaty between France and Great Britain respecting assistance to France in event of unprovoked aggression by Germany. June 28, 1919. (With maps.) *Foreign Office.* 21s. 9d.

World War, termination of the. Order in Council, Feb. 9, 1920, determining date of. (St. R. & O. 1920, No. 264.) 1½d.

## UNITED STATES [2]

Actions at law. Act relating to maintenance of actions for death on high seas and other navigable waters. Approved March 30, 1920. 1 p. (Public 165.) 5c.

Admiralty. Act authorizing suits against United States in admiralty, suits for salvage services, and providing for release of merchant vessels belonging to United States from arrest and attachment in foreign jurisdictions. Approved March 9, 1920. 4 p. (Public 156.) 5c.

Adriatic question. Joint memo. of Dec. 9, 1919, British-French revised proposals of Jan. 14, 1920, statement of French and British ministers of Jan. 23, 1920, President Wilson's note of Feb. 10, 1920, reply of French and British Prime Ministers of Feb. 17, 1920, and President Wilson's note of Feb. 24, 1920. 26 p. (S. doc. 237.) *Senate.*

Alien enemies. Executive order authorizing departure of, for European ports. Feb. 20, 1920. 1 p. (No. 3231.) *State Department.*

Alien property. Executive order concerning sale and conveyance of certain choses in action and rights, interests and benefits under certain agreements, determined to belong to, or to be held for, by, on account of, or on behalf of, or for benefit of persons determined to be enemies, not holding license or licenses granted by the President within purview of trading with the enemy act and amendments thereof. Feb. 13, 1920. 2 p. (No. 3227.) *State Department.*

[2] Where prices are given, the document in question may be obtained for the amount noted from the Superintendent of Documents, Government Printing Office, Washington, D. C.

Aliens. Hearing on bill to deport aliens who surrendered their first papers in order to escape military service. Nov. 7, 1919. Pt. 4, 53-87 p. *Immigration and Naturalization Committee.*

Amnesty to prisoners since the armistice. Communications showing action of Great Britain, France, Italy, and Belgium. March 1 and 11, 1920. 26 p. and 3 p. (S. docs. 241 and 249.) *State Dept.*; action of Italy, communication of March 25, 1920, 30 p. (S. doc. 249, Pt. 2.) *State Department.*

Arbitration agreement between Italy and United States. Agreement further extending duration of convention of 1908. Signed Mar. 20, 1919, 4 p. (Treaty series, 645.) *State Department.*

Arbitration convention between Spain and United States. Agreement further extending duration of convention of 1908. Signed March 8, 1919. (Treaty series, 644.) *State Department.*

Armenia. Report of American military mission to Armenia by Maj. Gen. James G. Harbord. 44 p. (S. doc. 266.) *Senate.*

Birds. Communication submitting statement in regard to conventions or treaties with republics of Mexico and of Central and South America for protection of migratory birds. March 22, 1920, 2 p. (S. doc. 259.) *State Department.*

Bolshevism. Red radicalism as described by its own leaders, exhibits collected by Attorney General Palmer, including various communist manifestoes, constitutions, plans, and purposes of proletariat revolution and its seditious propaganda. 1920. 83 p. *Justice Department.*

———. Letter transmitting to Senate Committee on Foreign Relations memorandum on certain aspects of Bolshevist movement in Russia. 1920. 55 p. (S. doc. 172.) *State Department.*

Commercial travelers. Convention between Panama and United States to facilitate work of. Signed Feb. 8, 1919. 7 p. (Treaty series, 646.) *State Department.*

Communist and anarchist deportation cases. Hearings before subcommittee, April 21-24, 1920. 158 p. *Immigration and Naturalization Committee.*

Consuls. Digest of circular instructions to consular officers. Reprint, 1920. 53 p. *State Department.*

Copyright. Proclamation extending benefits of Act of March 4, 1909, to Great Britain. April 10, 1920. 3 p. (No. 1560.) *State Department.*

Copyright. Proclamation extending benefits of Act of March 4, 1909, to citizens of Sweden. Feb. 27, 1920. 1 p. (No. 1557.) *State Department.*

Diplomatic and consular appropriation bill. Hearings Jan. 7-15, 1920. 260 p.; report to accompany bill, Jan. 21, 1920. 15 p. (H. rp. 571.) *Foreign Affairs Committee.* Hearings, 1920, 41 p. *Foreign Relations Committee.*

Diplomatic and consular service of United States; corrected to Dec. 31, 1919. 57 p. *State Department.*

Foreign relations of United States. List of publications for sale by Supt. of Documents. Oct., 1919. 50 p. (Price list 65, 4th ed.) *Government Printing Office.*

Foreign trade. Report on Federal Government activities on promotion of. 1920. 88 p. (H. doc. 650.) *Efficiency Bureau.*

Germany. Information regarding status of American military forces now stationed in German territory, message of President transmitting. April 1, 1920. 2 p. (H. doc. 709.) *State Department.*

———. Termination of state of war with. Report to accompany joint resolution. April 6, 1920. 3 p. (H. rp. 801, Pt. 1); minority views, April 7, 1920, 19 p. (H. rp. 801, Pt. 2.) *Foreign Affairs Committee.*

International High Commission. Address on work of, delivered by John Bassett Moore at Pan-American Financial Congress, Washington, Jan. 19-24, 1920. 9 p. (S. doc. 261.) *Senate.*

Ireland. Hearings on bill to provide for salaries of minister and consuls to Republic of Ireland. 361 p. *Foreign Affairs Committee.*

Japanese in Hawaii. Hearing on bill to amend act of Feb. 5, 1917, to regulate immigration of aliens to and residence of aliens in United States. 1920. 42 p. *Immigration Committee.*

Jews. Report on actual conditions in the Ukraine with respect to treatment of members of Jewish race. Jan. 12, 1920. 3 p. (S. doc. 176.) *State Department.*

Pan-American Financial Congress, Second, Washington, D. C., Jan. 19-24, 1920. List of official delegations, guests and special representatives, and members of group committees, schedule of sessions, etc., 1st ed. 1920. 56 p.; same in Spanish, 59 p. *Pan-American Union.*

———. Saludo del Woodrow Wilson, Presidente de los Estados Unidos de América, a los delegadoes del Segundo Congreso Finan-

ciero Panamericano reunido en Washington del 19 al 24 de enero de 1920. 5 p. *Treasury Department.*

Passports, visés, and conditions of travel from foreign countries to United States. 1920. 3 p. *State Department.*

Poland. Report by Henry Morgenthau on work of mission of United States to Poland, with report by Edgar Jadwin and Homer H. Johnson. 1920. 24 p. (S. doc. 177.) *State Department.*

Marine insurance. Hearings, July 9–Sept. 27, 1919. 354 p. *Merchant Marine and Fisheries Committee.*

———. Report on status of marine insurance in United States, by S. S. Huebner, including recommendations of sub-committee on merchant marine and fisheries. 1920. 100 p. *Merchant Marine and Fisheries Committee.*

Merchant marine. Hearings relating to establishment of. Feb. 14-Mar. 11, 1920. Pts. 24-38, 1215-2080 p. *Commerce Committee.*

Mexican affairs. Hearings before subcommittee investigating outrages on citizens of United States in Mexico. Pt. 7-14, 845-2164 p. map. *Foreign Relations Committee,* report of Senator Fall, Dec. 9, 1919. 10 p. *Foreign Relations Committee.*

———. Report of commission appointed by War Department to investigate claim growing out of insurrection in Mexico. (S. rp. 401.) Jan. 28, 1920. *Military Affairs Committee.*

Naturalization. Proposed changes in naturalization laws. Hearings Feb. 28, 1920. 19 p. *Immigration and Naturalization Committee.*

———. Syllabus of naturalization laws for use of those cooperating with Division of Citizenship Training in assisting aliens desiring citizenship. Reprint, 1920. 10 p. *Naturalization Bureau.*

Norway. Communication, with accompanying papers, in relation to claim of Norway on account of detention of three members of crew of ship *Ingrid.* Feb. 28, 1920. 8 p. (H. doc. 664.) *State Department.*

Parcel post convention between United States and Czecho-Slovakia, signed Oct. 31, 1919. 7 p. *State Department.*

Passports. Joint resolution extending passport control for one year after termination of the war. Approved Dec. 24, 1919. 1 p. Pub. Res. 27. 5c.

Peace. Fundamental peace ideas, including Westphalian peace treaty, 1648, and League of Nations, 1919, in connection with inter-

national psychology and revolution by Arthur MacDonald. 1919. 16 p. *Senate.*

Radiotelegraphy. Statement to accompany bill to regulate operation of and to foster development of radio communication in United States. March 8, 1920. 15 p. (S. doc. 248.) *Naval Communication Service.*

Relief of European populations. Hearings Jan. 10-29, 1920. 160 p. *Ways and Means Committee;* Act for relief of, approved March 30, 1920. 1 p. (Public 167.) Sc.

Russian propaganda. Hearings before subcommittee investigating status and activities of Ludwig C. A. K. Martens, claiming to be representative of Russian Socialistic Soviet Republic. 1920, Pt. 1-13. 504 p. *Foreign Relations Committee;* report of committee, Apr. 14, 1920. 15 p. (S. rp. 526.) *Foreign Relations Committee.*

Sedition. Hearings on bill to punish offenses against existence of Government of United States. Dec. 11 and 16, 1919. 64 p.; reports to accompany bills, Jan. 12, 1920, 7 p. (H. rp. 536), Jan. 14, 1920, 9 p. (H. rp. 542); *Judiciary Committee;* hearings Feb. 4, 6, 10, 1920, 288 p. (Serial 16).

———. Hearings on bill to prohibit and punish certain seditious acts against Government of United States. 1920. 203 p. *Rules Committee.*

———. Laws relating to espionage. Public law 24, 65 Cong. 1st session, and Public law 150, 65 Cong. 2d session 1920. 18 p. *Senate.*

Shipping. Hearings on bill for recording of mortgages on vessels and subordinating maritime liens for necessaries to liens of mortgages. Feb. 6, 1920. Pt. 5, 61 p. *Merchant Marine and Fisheries Committee.*

Ships acquired from Germany. Message transmitting information with respect to disposition of ex-German vessels in possession of United States, and transmitting draft of proposed understanding in regard to ex-enemy merchant tonnage. Feb. 18, 1920. 3 p. (S. doc. 231.) *State Department.*

Trade-mark convention signed at Buenos Aires, 1910. Report to accompany bill to give effect to. Feb. 21, 1920. 2 p. (S. rp. 432.) *Patents Committee.*

———. Hearings, Feb. 25, 1920. Pt. 2, 31-36 p. *Patents Committee.*

Trading with the enemy act and amendments thereto, with procla-

mations, executive orders, and orders issued by Acting Secretary of State, issued thereunder to Nov. 25, 1919. 139 p. *Alien Property Custodian.*

Versailles Treaty, 1919. Statements made to the press regarding bipartisan conference on reservations to, by Senators Lodge and Hitchcock. 1920, 15 p. (S. doc. 193.) *Senate.*

GEO. A. FINCH.

# JUDICIAL DECISIONS INVOLVING QUESTIONS OF INTERNATIONAL LAW

## MISSOURI *v.* R. P. HOLLAND

*Supreme Court of the United States*

[April 19, 1920]

Mr. Justice Holmes delivered the opinion of the court.

This is a bill in equity brought by the State of Missouri to prevent a game warden of the United States from attempting to enforce the Migratory Bird Treaty Act of July 3, 1918, c. 128, 40 Stat. 755, and the regulations made by the Secretary of Agriculture in pursuance of the same. The ground of the bill is that the statute is an unconstitutional interference with the rights reserved to the States by the Tenth Amendment, and that the acts of the defendant done and threatened under that authority invade the sovereign right of the State and contravene its will manifested in statutes. The State also alleges a pecuniary interest, as owner of the wild birds within its borders and otherwise, admitted by the Government to be sufficient, but it is enough that the bill is a reasonable and proper means to assert the alleged quasi sovereign rights of a State. Kansas *v.* Colorado, 185, U. S. 125, 142. Georgia *v.* Tennessee Copper Co., 206 U. S. 230, 237. Marshall Dental Manufacturing Co. *v.* Iowa, 226 U. S. 460, 462. A motion to dismiss was sustained by the District Court on the ground that the Act of Congress is constitutional. 258 Fed. Rep. 479. Acc. United States *v.* Thompson, 258 Fed. Rep. 257; United States *v.* Rockefeller, 260 Fed. Rep. 346. The State appeals.

On December 8, 1916, a treaty between the United States and Great Britain was proclaimed by the President. It recited that many species of birds in their annual migrations traversed many parts of the United States and of Canada, that they were of great value as a source of food and in destroying insects injurious to vegetation, but were in danger of extermination through lack of adequate pro-

tection. It therefore provided for specified close seasons and protection in other forms, and agreed that the two Powers would take or propose to their lawmaking bodies the necessary measures for carrying the treaty out. 39 Stat. 1702. The above-mentioned act of July 3, 1918, entitled an act to give effect to the convention, prohibited the killing, capturing or selling any of the migratory birds included in the terms of the treaty except as permitted by regulations compatible with those terms, to be made by the Secretary of Agriculture. Regulations were proclaimed on July 31 and October 25, 1918. 40 Stat. 1812; 1863. It is unnecessary to go into any details, because, as we have said, the question raised is the general one whether the treaty and statute are void as an interference with the rights reserved to the States.

To answer this question it is not enough to refer to the Tenth Amendment, reserving the powers not delegated to the United States, because by Article II, Section 2, the power to make treaties is delegated expressly, and by Article VI treaties made under the authority of the United States, along with the Constitution and laws of the United States made in pursuance thereof, are declared the supreme law of the land. If the treaty is valid there can be no dispute about the validity of the statute under Article I, Section 8, as a necessary and proper means to execute the powers of the Government. The language of the Constitution as to the supremacy of treaties being general, the question before us is narrowed to an inquiry into the ground upon which the present supposed exception is placed.

It is said that a treaty cannot be valid if it infringes the Constitution, that there are limits, therefore, to the treaty-making power, and that one such limit is that what an act of Congress could not do unaided, in derogation of the powers reserved to the States, a treaty cannot do. An earlier act of Congress that attempted by itself and not in pursuance of a treaty to regulate the killing of migratory birds within the States had been held bad in the District Court. United States *v.* Shauver, 214 Fed. Rep. 154. United States *v.* McCullagh, 221 Fed. Rep. 285. Those decisions were supported by arguments that migratory birds were owned by the States in their sovereign capacity for the benefit of their people, and that under cases like Geer *v.* Connecticut, 161 U. S. 19, this control was one that Congress had no power to displace. The same argument is supposed to apply now with equal force.

Whether the two cases cited were decided rightly or not they cannot be accepted as a test of the treaty power. Acts of Congress are the supreme law of the land only when made in pursuance of the Constitution, while treaties are declared to be so when made under the authority of the United States. It is open to question whether the authority of the United States means more than the formal acts prescribed to make the convention. We do not mean to imply that there are no qualifications to the treaty-making power; but they must be ascertained in a different way. It is obvious that there may be matters of the sharpest exigency for the national well being that an act of Congress could not deal with but that a treaty followed by such an act could, and it is not lightly to be assumed that, in matters requiring national action, "a power which must belong to and somewhere reside in every civilized government," is not to be found. Andrews *v.* Andrews, 188 U. S. 14, 33. What was said in that case with regard to the powers of the States applies with equal force to the powers of the nation in cases where the States individually are incompetent to act. We are not yet discussing the particular case before us but only are considering the validity of the test proposed. With regard to that we may add that when we are dealing with words that also are a constituent act, like the Constitution of the United States, we must realize that they have called into life a being the development of which could not have been foreseen completely by the most gifted of its begetters. It was enough for them to realize or to hope that they have created an organism; it has taken a century and has cost their successors much sweat and blood to prove that they created a nation. The case before us must be considered in the light of our whole experience and not merely in that of what was said a hundred years ago. The treaty in question does not contravene any prohibitory words to be found in the Constitution. The only question is whether it is forbidden by some invisible radiation from the general terms of the Tenth Amendment. We must consider what this country has become in deciding what that amendment has reserved.

The State as we have intimated founds its claim of exclusive authority upon an assertion of title to migratory birds, an assertion that is embodied in statute. No doubt it is true that as between a State and its inhabitants the State may regulate the killing and sale

of such birds, but it does not follow that its authority is exclusive of paramount powers. To put the claim of the State upon title is to lean upon a slender reed. Wild birds are not in the possession of anyone; and possession is the beginning of ownership. The whole foundation of the State's rights is the presence within their jurisdiction of birds that yesterday had not arrived, tomorrow may be in another State and in a week a thousand miles away. If we are to be accurate we cannot put the case of the State upon higher ground than that the treaty deals with creatures that for the moment are within the State borders, that it must be carried out by officers of the United States within the same territory, and that but for the treaty the State would be free to regulate this subject itself.

As most of the laws of the United States are carried out within the States and as many of them deal with matters which in the silence of such laws the State might regulate, such general grounds are not enough to support Missouri's claim. Valid treaties of course "are as binding within the territorial limits of the States as they are effective throughout the dominion of the United States." Baldwin *v.* Franks, 120 U. S. 678, 683. No doubt the great body of private relations usually fall within the control of the State, but a treaty may override its power. We do not have to invoke the later developments of constitutional law for this proposition; it was recognized as early as Hopkins *v.* Bell, 3 Cranch. 454, with regard to statutes of limitation, and even earlier, as to confiscation, in Ware *v.* Hylton, 3 Dall. 199. It was assumed by Chief Justice Marshall with regard to the escheat of land to the State in Chirac *v.* Chirac, 2 Wheaton, 259, 275. Hauenstein *v.* Lynham, 100 U. S. 483. Geoffroy *v.* Riggs, 133 U. S. 258. Blythe *v.* Hinckley, 180 U. S. 333, 340. So as to a limited jurisdiction of foreign consuls within a State. Wildenhus' Case, 120 U. S. 1. See Ross *v.* McIntyre, 140 U. S. 453. Further illustration seems unnecessary, and it only remains to consider the application of established rules to the present case.

Here a national interest of very nearly the first magnitude is involved. It can be protected only by national action in concert with that of another Power. The subject-matter is only transitorily within the State and has no permanent habitat therein. But for the treaty and the statute there soon might be no birds for any powers to deal with. We see nothing in the Constitution that compels the Government to sit by while a food supply is cut off and the protectors of

our forests and our crops are destroyed. It is not sufficient to rely upon the States. The reliance is vain, and were it otherwise, the question is whether the United States is forbidden to act. We are of the opinion that the treaty and statute must be upheld. Cary *v.* South Dakota, 250 U. S. 118.

*Decree affirmed.*

Mr. Justice Van Devanter and Mr. Justice Pitney dissent.

## BOOK REVIEWS[1]

*Present Problems in Foreign Policy.* By David Jayne Hill. New York: D. Appleton & Co. 1920. pp. 361. $1.50 net.

This is a volume of essays upon subjects of international importance, most of which now interest the statesmen of the world especially from the point of view of each of the participants in the Great War; they tend largely in the direction of a unity of purpose as well as a community of organized effort amongst all nations to secure that political and commercial harmony which shall become the basis of a lasting peace.

The collection of seven or eight papers which the author has subdivided here into that many chapters of his book is made up of articles published heretofore by him in *The North American Review,* or of addresses delivered upon appropriate occasions before the George Washington University. Their most important headings, as, for instance: "The Entente of Free Nations," "The Obstruction of Peace," "The Corporate Character of the League of Nations," "The Treaty-Making Power under the Constitution of the United States," "The President's Challenge to the Senate," sufficiently indicate the character of the material of which they are composed and show the wide range of the discussions incidental to them; to which, it may be said at the outset, Dr. Hill has devoted a ripened scholarship as well as a mature judgment derived from long experience in these matters.

Indeed, there are few Americans of today whose career in public life has brought them more closely into contact with the foreign relations of the United States, or with questions of international law in general. For as Assistant Secretary of State, as Minister Plenipotentiary and Ambassador, his intimate acquaintance with the actual practice in intercourse between the great Powers abroad gives him the right to speak with authority where these legal and political

[1] The JOURNAL assumes no responsibility for statements made or views expressed in signed book reviews.—ED.

questions are concerned. We should say that, amongst the strongest impressions which one obtains from the careful reading of his essays is perhaps that of the tranquillity and fairness with which Dr. Hill approaches the consideration of these questions, many of which have frequently become, and are even now, the sources of violent disagreement or acrimonious debate.

This does not mean, of course, that he has not made up his mind or that he has no decided opinion in regard to them; for, on the contrary, he gives evidence of an exceedingly definite and very conclusive opinion, at which he has arrived after deliberate consideration and reasoning and into the course of which he invites the reader or student to follow as he proceeds with the development of his theme. This is especially true in regard to his treatment of the League of Nations.

Every international lawyer and statesman whose contact with colleagues or opponents in the establishment of mutual friendly relations between the peoples of different countries, or the composure of disputes arising from diversity of traditions or of purpose, has learned that sentiment is not to be looked upon as a determining factor in examining or treating international questions; because these, like any other negotiations in the political or commercial world, are to be met and disposed of by arrangements which, whilst avoiding conflict, shall ultimately safeguard the aims and interests of the parties most directly concerned.

Consequently each takes in such matters, as it is natural that he should, the point of view which most nearly coincides with the principle of administration and the attainment of the national purposes of his countrymen where these meet and touch, or are in any wise brought within the range of the public interests of other people. Dr. Hill's attitude is consistently American, as we should expect it to be, and always within the limits of his just and complete rights. We sympathize and agree with him when he says, for example, in speaking of the plan proposed for a League of Nations: "We do not wish to be misunderstood in Europe by the representation that we went into this war with the purpose, or for the end of creating a League of Nations. We have not, as a people, studied the project. We do not even know what it is. Of one thing some of us are sure, we do not wish or intend to be bound in the dark or to be controlled by abstract terms that would make us shrink from keeping our obliga-

tions in a concrete way; and we know that nothing is more illusive than the requirements of a treaty, unless it is very precise and treats of matters clearly and definitely known. And," he continues, "it must be emphasized that no one Power can expect, or should desire, to impose upon others a system of which they do not all heartily approve; for, if any plan is to be permanent and effective it must have the support not only of the leading governments but of the masses of the people whom these governments represent."

He gives us a very timely warning in this regard, which ought to be, and is, of value to the reflecting portion of the population of this country before whom the precise question of the approval by the United States of such a league is likely to become one of the foremost elements of conflict in the approaching Presidential campaign, in which each citizen is to determine for himself whether he will take sides in favor of it or not. Any one who wishes to obtain a judicial statement of the case may find it in Dr. Hill's chapter entitled: "The Entente of Free Nations," which it will be profitable for him to read.

Without undertaking to analyze the peculiar forms proposed for an international constitution, as the fundamental law regulating the legislative, judicial and executive powers of such an international government—which will control the governments of the nations that subscribe to it—Dr. Hill points out that: "to possess any efficiency these powers must detract in large degree from the powers of the national governments and involve a considerable sacrifice of their sovereignty. Every scheme for a League of Nations requires this surrender in some degree, for every such league creates in some form a supernational body of control to which the members agree to submit. Membership in such a league, of necessity, implies the renunciation of any independent foreign policy."

All this is of the first importance to America. It ought to be brought home to the mind of every American citizen that schemes of this kind cannot add anything possible to the dignity or the authority of the United States amongst the nations of the world, but that the absolute and inevitable result would be, to yield into the hands of other people whose interests are not identical with our own the solution of national or international questions which the judgment of the American people is strong enough and wise enough to decide for itself, and to permit interference by foreigners in the management

of our domestic affairs which would be an intolerable encroachment upon American independence.

Now is the time to understand and reflect upon these things. Assuredly the people of the United States are a peace-loving nation. They have not the nature to seek aggressive war, or any war; their ambition has always been, to right wrongs and to establish justice in the world; they fulfil scrupulously any international obligation that they have ever entered into, and they will continue to do so. But, it is still true, as Thomas Jefferson once said, in the turmoil and conflict of his day: a way must be found "which will reconcile our faith and honor with peace."

This evidently is not what Dr. Hill considers likely to be accomplished by the "Covenant" prepared at the conference in Paris, which he refers to as being not the formation of a universal Society of States such as is contemplated by international law, but a creation of a predominant group within this more general association. It is, he says, a distinct corporate entity, "exercising a will not identical with that of all the separate members, organized with power to coerce other States not belonging to it, to act under its own rules and by its own judgment, and even to dictate the form of government and degree of authority to be exercised over wide areas and great populations subject to its control."

Nothing, certainly, could be farther from the spirit of the American Constitution than the form of control thus conceived, nor could any one imagine the people of this country becoming a participant in a league which our author describes as a covenant which "creates a new legal person, acting by itself and in accordance with rules to be adopted by itself. It creates a body, at first called the Executive Council, which, in turn choses and directs its own organs of action, defines their rights and duties and confers new authority upon them. It creates obligations on the part of the nations composing the league which these nations owe not to one another but to the league, as a distinct and separate legal person, who can call them to account for non-performance of duty and inflict punishment upon them. It attributes to the league, as a corporate entity, powers which the separate States do not, either singly or in combination, themselves possess." An *imperium*, he says, over States not belonging to the league which is empowered to coerce and punish them for not submitting to its decisions.

"But," declares Dr. Hill in summing up the character of the League of Nations, "Imperialism is imperialism, whether it be joint or single, and it is not a business that tends toward democracy or toward justice;" and one is inclined to wonder whether he has not in mind two famous voyages to France, now recorded in modern history, when he adds: "Even in its purity and its best state it is a dangerous enterprise for a free people to engage in, and it is more dangerous than ever when innocence and good intention become the partners of seasoned experience in a game for power."

Very interesting chapters of the book are those entitled: "The Obstruction of Peace" and "The President's Challenge to the Senate," in both of which there is presented a carefully reasoned argument based upon the unwillingness of the President even to admit criticism of his aims and purposes or interference with his determined will to carry through in his own way what he had it in his own mind to do. He obstructed in that manner, declares our author, the re-establishment of peace, whilst by his attitude toward the Senate he virtually informed thirty-nine Senators, elected by the people, representing more than two-thirds of the population of the United States, that the advice and consent of the Senate would receive no consideration. They might, if they chose, privately regard the League of Nations as a defiance of their judgment and even a violation of the fundamental law of the republic, but they would find themselves in a position in which they would have to accept this document as it had been formulated, or they would be compelled to bear the odium of preventing the conclusion of peace, because the League of Nations would be an essential part of the peace treaty.

Upon this point Dr. Hill has expressed himself in as precise terms, and with as strong a determination as in any other part of his book. His conclusion is that: "It is not necessary to dwell upon this defiance of the constitutional division of the treaty-making power and of the purpose with which that division was originally made and should always be maintained. This defiance assumed what every autocratic usurpation of authority assumes, namely, that power could be invoked to sustain it. In this case it would no doubt be an attempt, in the nominal interest of peace, to bring political pressure to bear upon refractory Senators in order to compel them to yield to a superior will. It requires no reflection to perceive that if this were done and were successful, it would mark the extinction of

representative and even of constitutional government in the United States. That it was ever even contemplated indicates a departure from the principles on which our government is based, which should awaken a deep concern for the future and call attention to the perils of autocratic as distinguished from representative democracy."

The book is to be commended to the attention not only of the general reader of political or international subjects, but also of the student of contemporaneous American public questions who desires to comprehend at first hand the import of some of the problems now before the people of this country and likely in one way or another to affect their national influence and shape their destiny.

CHARLEMAGNE TOWER.

*A Treatise on International Law.* With an introductory essay on the definition and nature of the laws of human conduct. By Roland R. Foulke, of the Philadelphia Bar. Philadelphia: The John C. Winston Co., 1920, 2 vols.

The two volumes consist of 961 pages of text. To the second volume is added a Table of International Persons, so-called, covering 38 pages, and a complete index to both volumes, covering 88 pages, is duplicated and appended to each volume. It should be observed that a preliminary table of contents, covering 26 pages, is found in Volume 1, and that a like table of contents precedes and a full summary closes each chapter. The text is subdivided under many heads, printed in capitals. There are extensive footnotes and citations which often cover more than half and sometimes the entire page, and there are included many cross-references to kindred passages in the treatise itself. By these methods the work is made useful as a hand-book for rapid reference.

The preliminary essay points out the great confusion among writers due to failure in distinguishing the different conceptions of what law is. Mr. Foulke thinks if we cling to one of these, to the exclusion of the others, it is impossible to understand international law. He assumes that law has to do with human conduct, which he defines "as an adjustment of acts to ends," and after discussion propounds the following definition:

> Law as applied to human conduct in its broadest signification which will include all possible meanings, is the jural conception of human conduct as influenced by external factors other than forces of nature.

The publisher's circular, after saying that "There is nothing in English which can compare with this treatise" heads a further paragraph concerning it thus: "International Law Made Absolutely Clear."

Perhaps the above definition may not convince us that all difficulties are overcome. It ought to be added that Mr. Foulke in ample notes collects and compares the many definitions of Law given by writers. None it is believed has been found wholly adequate and it is too much to hope that Mr. Foulke's will satisfy all critics. The term "jural conception" is one which Mr. Foulke values and very frequently employs. He concludes that Law "has no origin or existence outside the mind of the thinker, although conduct and the external factors are facts which have existed and exist in the world today."

The second chapter is devoted to "Facts of International Life." Nations and states are defined and the latter are classified, their acts, recognition, community, equality and jurisdiction considered. "A state," it is asserted, "is a community of men exerting its power as an organization by its own inherent force and not by a delegation of power from any other organization." It is submitted that any little criminal or rebellious community exercising "its own inherent force," however temporary, would fall within this description, and a band of horse thieves in the hills, preying on the country, would be a state according to this definition. Mr. Foulke would seem to accept it as such since he says "An organization of men for a brief period is a state. . . . A mob does not constitute a state because it has no organization." Not infrequently a mob has a temporary organization and in that case it is a state if we accept Mr. Foulke's test. Pirate crews are not treated as states by the authorities, but this definition would include them as such, and Mr. Foulke declares that they "bear all the marks of a state." It is submitted that the definition is highly artificial and arbitrary and not in accord with the understanding of ordinary men or scholars. If every writer attaches his own meaning to words, neither science nor language is aided. It tends towards Babel and not towards clarification of thought or expression.

The author classifies states as fixed states, moving states, independent states, belligerent and insurgent states, dependent states and neutralized states. This division is, of course, along lines having no coördination, but it is used as showing those often followed. It is

illustrated by elaborate footnotes and many citations to leading authorities. There is added a valuable alphabetical list of states classified with facts and references as to the origin and status of each. This includes many small remote and obscure organizations concerning which information is not easily accessible elsewhere. There is a like annotated list of neutralized states, equally painstaking and comprehensive.

Mr. Foulke says "States are facts and their origin and extinction are facts or events in state life, just as the birth of an individual is a fact in his life," but he distinguishes between the "existence of a state as such and its participation in international life." He says, "every state, therefore, originates as a group of individuals separating from an already existing group." He discusses the extinction of states and cites the partition of Poland as one of the rare cases of such extinction. Mr. Foulke discusses the Family of Nations (p. 106) and prints a table of those existing as of Aug. 1, 1914, with date of appearance on the international horizon since 1648, showing twenty-six monarchies and twenty-seven republics.

He says "The Monroe Doctrine may very properly be considered a contribution by the United States to the maintenance of the balance of power."

Chapter 3 is devoted to the "Definition and Nature of International Law," and, like every chapter, is closed by a summary of facts and conclusions.

At page 183 then Mr. Foulke takes up "Substantive International Law." He gives to this six chapters covering Intercourse, Territory, The Sea, Treaties, Independent States and Aliens and State Conflicts. Among the interesting, though brief, discussions is that on Exclusion and Expulsion of Aliens (Vol. 2, p. 8), a right which he fully upholds with many references.

Beginning with Chapter 10 and including nine chapters "Remedial International Law" is treated, including War and Neutrality. The following titles of chapters, Property in War, Public Property in War, Private Property on Land and in Maritime Belt in War, Private Property at Sea in War, and Private Individuals in War, include topics which have become of overwhelming importance since proceedings so much more drastic than had been thought lawful have been adopted in the present great conflict. He reaches the conclusion,

however, that rules of warfare "will not be observed by any state whose civilization is not equal to the content of the rules."

As to the use of poison gas and flames, he says: "The international lawyer can really say nothing upon the question of the implements of war, as in no case has any argument ever prevailed to restrain the use of any particular implement, and the question after all is what will be found to be most efficient for the purposes in view." This opinion accords with that of many naval and military officers and, distressing though it is, this writer has found much difficulty in meeting their arguments. The discussion of neutrality covers some ninety-seven pages and is full and the notes copious and many of the references modern.

Under the title "Private Property on Sea in War," the topic "Destruction on Sight without Capture" is discussed, and the practice is found indefensible. There is no list of cases cited, but a full list of authors referred to and cases may be found in the twice printed index.

Mr. Foulke has perhaps put the accent more strongly on logic, as he, in a distinctly individualistic way, conceives it, than on precedent or authority, but he has gone to the latter with intelligence and industry. He has not neglected the vast and valuable mass of material to be found in modern periodicals. This illustrates the best recent thought and investigation in modern problems and practices. Its inclusion by references in his notes adds much to the usefulness of his volumes.

This reviewer cannot fully accede to the proposition of Mr. Foulke's publisher that by this work "International Law" is "made absolutely clear." To the further statement of the publisher that "To understand international law a person must be something of a man of the world, have a good knowledge of history and economics, the faculty of clear thought, and above all must not let his heart run away with his head," this reviewer would add that a wide knowledge of principle and precedent in the decisions of the tribunals and the writers of authority might be of assistance; that more than in most branches of law the head has yielded much to the heart in international law, which the writings of the great founder Grotius will exhibit and those of Vattel and many moderns will confirm. Mr. Foulke's attempt is ambitious and his performance will be found

stimulating, modern and valuable, even though not at all times convincing.

CHARLES NOBLE GREGORY.

*Commercial Policy in War Time and After: A Study of the Application of Democratic Ideas to International Commercial Relations.* By William Smith Culbertson, with an introduction by Henry C. Emery. New York: Appleton & Co., 1919. pp. 479. $2.50 net.

This work is an impressive discussion of the new economic world in which the war has left us. There has been a terrific shattering of old systems, national and international. Economic tendencies that had long existed have been freed from restraints and left to do their natural work and, chief among these, has been the tendency to enlarge the economic functions of governments.

In addition, however, to liberating old forces, the war introduced new and far-reaching ones which caused the tendency toward the public control of industries to proceed with a rush and produced startling transformations, as it were, over night. The expression "industrial army" became no longer a figure of speech. There was such an army in literal fact furnishing guns, missiles, food, clothing, ships, airplanes, etc., for the men fighting in the trenches. The men in the shops were part and parcel of the fighting force. Direct production of some things by the state and, on a larger scale, the production by contractors acting under authority of the state, became striking facts and these enlarged economic activities in every country engaged in the world conflict remain as a permanent aftermath.

This has created a novel international situation. Before the war individuals traded across boundary lines with the permission of their own governments and with some little fostering care by them. Now governments assert a direct control in this sphere and a nation imports and exports goods by grace of its own government and foreign governments. Importing and exporting are permitted, fostered, restricted or, by embargo, prohibited according to the policy of states, each of which acts for itself. Greater powers than ever before engaged in a scramble for commercial advantage are now active in the arena. It means that the world is an organism in a true sense. Economic activities have always treated political boundaries in a

cavalier manner and trade has never confined itself to the region guarded by a particular flag. On the other hand, commercial invasions of foreign lands never before had a tithe of the political backing that they are beginning to get and are likely to get, to a still greater extent, in the future. In a thousand ways governments are participants in international trade and have their hands on transactions not merely for relieving famine by exporting foodstuffs, or for furnishing employment to idle workmen by exporting products of any sort, but for a score of economic ends.

Much of this is, briefly but clearly, presented in this volume, and it suggests the fact that, as trade unions have united men in societies and as these societies become the basis of states themselves, it may conceivably unite nations in a world society and, ultimately, in a world state. It appears, however, that trade between individuals furnishes many occasions of quarreling and that trade between nations may have the same effect. If it does so, however, another inference is clear—that, as the quarrels of individuals are settled by ordinary courts, those of nations will have to be settled in a similar way and that, as quarrels between individuals are very largely forestalled and prevented by law, so international quarrels will have to be prevented in the same way. We are in an economic society that is world-wide—one in which single nations are trying actively each to promote its own interest. They are doing it on an unprecedented scale and there is connected with the process both an inspiring hope and a grave peril, and it would require either blindness or willful ignorance to fail to see how pressing is the need of international institutions of some kind to prevent the world organism of the future from becoming a worse arena of conflict than has as yet existed.

The book sketches a goodly number of measures taken by governments for guarding their own citizens, as they are drawn into international dealings, and describes the new positions in which the problem of protective tariffs is placed. The conclusion is as interesting as any part of the work, chiefly because it presents a view which, in one way, strongly favors a League of Nations and, in another way, somewhat obscures the natural method of attaining it. In an interesting introductory note Professor Henry C. Emery expresses some dissent from the author's conclusions, on the ground that no League of Nations is likely to have much permanence which is not a League "*against* something." The author, on the other hand,

expresses the conviction that the Entente is not a model League because it is a combination against Germany. He condemns the union of Mittel-Europa because it is imperialistic and, if it had conquered in the war, would have gone on to other fields conquering and subjugating. It would have had no liking for democracy within its component nations and none for the principle of democracy in the relation of these nations to each other. It would have been a world empire with Mittel-Europa as its central area, Prussia as its ruler and the Hohenzollern system over all. The opposing union—that is, the Entente—certainly will not be criticized on that ground, and facts which prove this are contained both in the book itself, and in Professor Emery's criticism. The Entente derived its vigor from the fact that it was "against something" and world-wide imperialism was that "something." Germany was the embodiment of it, while within the Entente the democratic principle prevailed in both a national and an international way, except in Russia which has ceased to be an element. There was democracy within the states and between them and it will be hard to find in discriminations against Germany which were put into the Treaty of Peace for no other purpose than to make the world secure against German imperialism, an evidence that the Entente, itself, is not already the proper nucleus for a much broader union, ultimately including a renovated Germany, and capable of accomplishing the ends which, in this work, are so well defined as the most pressing need of the world of to-day. The great value of the work is the revelation it makes of the new conditions which make some such effective union of nations a *sine qua non* of future prosperity and peace.

JOHN BATES CLARK.

*Authority in the Modern State.* By Harold J. Laski. New Haven: Yale University Press, 1919. pp. 398.

"This volume," the author tells us in his preface, "is in some sort the sequel to a book on the problem of sovereignty—published in March, 1917. It covers rather broader ground, since its main object is to insist that the problem of sovereignty is only a special case of the problem of authority." Conceiving the state as an aggregation of certain group-units rather than as an organized citizen-

community whose final cause is the welfare of a united although complex body, our author is inclined to deny (page 81)

> the claim of the state to represent in any dominant and exclusive fashion the will of society as a whole. It is true that it does in fact absorb the vital part of social power; but it is yet in no way obvious that it ought to do so. It is in no way obvious immediately it is admitted that each individual himself is in fact a center of diverse and possibly conflicting loyalties, and that in any sane political ethic, the real direction of his allegiance ought to point to where, as he thinks, the social end is most likely to be achieved. Clearly there are many forms of association competing for his allegiance.

Our author doubts the possibility of continuity in the present political order in the United States, and thinks the dawn of a "new time" to be already brightening the sky. Nor will this coming regeneration find its pattern in existing democratic institutions.

> What, in a sense, is being born is a realization of the state; but it is a realization that is fundamentally different from anything that Europe has thus far known. For it starts out from an unqualified acceptance of political democracy and the basic European struggle of the last hundred years is thus omitted (p. 116). . . . It is towards a new orientation of ideals that America is moving. . . . It is upon this fact that ours is an age of vital transition that the evidence seems clearly to concentrate. . . . Violence, as with the militant suffragists in England, may well come to be regarded as a normal weapon of political controversy; nor have those who suffered imprisonment for their acts regarded the penalty as other than a privilege. In such an aspect, the sovereignty of the state, in the only sense in which that sovereignty can be regarded as a working hypothesis, no longer commands anything more than a partial and spasmodic acceptance (pp. 117-119). . . . The one thing in which we can have confidence as a means of progress is the logic of reason. We thus insist, on the contrary, that the mind of each man, in all the aspects conferred upon him by his character as a social and a solitary being, pass judgment upon the state; and we ask for his condemnation of its policy where he feels it in conflict with the right.
>
> That, surely, is the only environment in which the plant of liberty can flourish. It implies, from the very nature of things, insistence that the allegiance of man to the state is secondary to his allegiance to what he may conceive his duty to society as a whole. It is, as a secondary allegiance, competing in the sense that the need for safeguards demands the erection of alternative loyalties which may, in any given synthesis, oppose their wills to that of the state (pp. 121-122).

Mr. Laski clearly discerns no single final authority in the state, and hence individual loyalty may well find its objective in various directions. But any such view excludes the conception of the state

as a citizen-body whose diverse elements must be regarded as fused in a higher synthesis of the whole. Assuredly it is in vain that we posit any coherent system of political administration unless this be supported by enforceable law derived from a single ultimate source. Here alone can we hope to find the *order* indispensable to every practicable government. Although our differences be adjusted through judicial or arbitral decision, there is none the less need of an enforcing power. In other words, order springing from law clothed with a definite *sanction* must be clearly visible in every state-plan. Nor do the highly disturbed conditions now in evidence on so wide a field call for the emergence of new *principles* of action, but rather for an evenly balanced application of very ancient and familiar principles to the special needs of the moment. Political authority—one and indivisible—must be recognized and obeyed by every section or group in the state; these groups cannot claim to be themselves the springs of a power which must be securely posited before they may even claim to exist.

Three chapters of Mr. Laski's book are devoted to carefully executed studies of Bonald, Lamennais, and Royer-Collard, while the fifth and concluding chapter reviews at some length present-day aspects of "Administrative Syndicalism in France." The Vicomte de Bonald, the most celebrated protagonist of theocratic conceptions during the reign of Louis XVIII, preceded in his theories by some twenty years the Swiss von Haller, whose work on the restoration of political science saw the light in 1816, he being thus a contemporary of Joseph de Maistre and the famous group of constitutional royalists known as "Doctrinaires." The members of this group, whose aims are ably sketched in the Histoire Générale (Vol. 10, Ch. III.) and in the Cambridge Modern History (Vol. X, Ch. II), were: Royer-Collard, Camille Jordan, de Serre, de Barante, Guizot, Laîné, Maine de Biran, Beugnot, Mounier, Rémusat, de Broglie, Decazes. To the present writer Mr. Laski's painstaking industry tends at times to somewhat obscure a clear view of the notable subjects of his essays, though the student will gain much information from these pages. The author, however, is by no means exact at all points as, for example, in his appended "Note on the Bibliography of Lamennais" (pp. 388-389), which is neither as complete nor as accurate as the bibliography appended to the valuable article on Lamennais in the eleventh edition of the Encyclopedia Britannica. Mr. Laski's book will be read with

interest by all interested in the many new views of society and government now being developed.

GORDON E. SHERMAN.

*International Waterways.* By Paul Morgan Ogilvie, M.A. New York: The Macmillan Company, 1920. pp. 424.

The author sees a closer connection between the freedom of navigation on the high seas and the principles of law relating to international rivers than will perhaps be generally admitted. But even if his view is extreme, he has at least helped clear thinking by showing that as commerce in its relations to modern society is a vital necessity (p. 8), the legal aspects of that commerce should be viewed as a whole and not piecemeal or according to some arbitrary classification of subject matter.

After some general discussion of the importance and development of water-borne commerce, there is a chapter on the institution of maritime law which is almost unrelated to the rest of the work. The connection which the author assumes between the early codes and "the unrestrained navigation of the sea" (p. 29) cannot fairly be said to exist, either historically or logically.

The historical sketch of sovereignty and freedom of the seas is on the whole an admirable summary, although not all of its conclusions will be accepted. The author does not sufficiently explain the British policy of the nineteenth century (p. 106) and his statement as to the liberality of the British view is far too sweeping. See, for example, President Grant's message of December 5, 1870, in Messages and Papers of the Presidents, Vol. VII, pp. 102-105.

In his consideration of limitations on the use of the sea during war, the author assumes an exactness of legal right before the outbreak of the World War (p. 133), which did not exist, and The Hague Conventions and the Declaration of London are not even mentioned. The author says, "the laws of maritime warfare represent a virtual compromise between the irreconcilable interests of neutrals and belligerents" (p. 134), whereas the failure to agree upon the Declaration of London, aside from any consideration of events since 1914, is alone sufficient to show that no such compromise had been reached even nominally.

Mr. Ogilvie would date the principle of freedom of navigation in

inland waterways from the Congress of Vienna (1815) or from the declaration made by the Allied Sovereigns in Paris in 1814. But the declaration of the Congress of Vienna was not "unequivocal" as the author supposes (p. 151). The language was not that used in 1814, as is carefully pointed out by Westlake who says, indeed, "The wording seems to have been skilfully chosen in order to mask a retreat, intended by some members of the congress, to the ground of *condominium.*" (International Law, Part I, p. 150.)

Nor will international lawyers agree that claims to jurisdiction over such bays as the Chesapeake can be summarily dismissed as "extravagant" (p. 133). The whole question of marginal waters is one of much greater complexity than is realized and is probably not to be settled by any hard and fast rules—the geographers have pointed out that one coast line may be very different in character from another and that most remarkable results follow in various parts of the world from a line drawn regularly three (or even, as suggested, six) sea miles from the coast. No one would agree, for example, that naval battles could or should be fought off the inhabited coasts of neutrals at any such arbitrary limit of distance.

In mentioning the importance to Switzerland of the development of the Rhine, it should be pointed out that the Swiss right was first recognized at the Conference of Paris, where representatives of Switzerland were heard. See Articles 355 and 359 of the Treaty of Versailles.

But while we may not always agree with Mr. Ogilvie, his knowledge of his subject and his clear style make his study one which is to be welcomed.

It is difficult to speak too highly of Part II of Mr. Ogilvie's work, "A Reference Manual to the Treaties, Conventions, Laws and Other Fundamental Acts Governing the International Use of Inland Waterways." Only those who have endeavored to study any particular international river question in detail can well appreciate the learning and industry which have gathered together this compendium of information. A work such as this, which has not been done before, and which is so well done that it will not have to be done again, is a real contribution to legal literature, for which the author will be thanked by every other worker or student in his field. The arrangement of the material is admirable and convenient and after careful checking with the material regarding waterways available at the

Conference of Paris, it appears to the reviewer that the Manual of Mr. Ogilvie is substantially complete.

The whole work is thoroughly indexed and contains a bibliography.

Mr. Ogilvie promises a subsequent treatise on "International Rights on Inland Navigable Waterways" which all the readers of his present work will await with interest.

DAVID HUNTER MILLER.

*Report on the Foreign Service.* New York: National Civil Service Reform League. pp. 322 (no index).

The diplomatic and consular officers of the United States will have an enormously increased burden of responsibility in consequence of the World War. Consequently, the National Civil Service Reform League has held it to be desirable to gather a mass of facts on the subject of the needs of the foreign service and has made certain recommendations for its improvement. Chief of these recommendations are: (1) for an improvement of the entrance examination for the foreign service and placing the appointments more strictly upon a merit basis; (2) for the purchase of embassies, legations and consulates; (3) for an increase of salary in all the branches of the service at home and abroad; and (4) for the extension of the merit system of promotion to the selection of ministers. The special committee which made the investigation for the League comprised Ellery C. Stowell, chairman, Richard H. Dana and George T. Keyes, *ex-officio* members, Ogden H. Hammond and Ansley Wilcox, all competent men, the chairman especially being an accomplished student of international affairs.

The Committee says that, hereafter, the extension of our commerce will depend very greatly upon the coöperation of the Government with the individual and the consequent assistance of the Government's agents abroad. It emphasizes the responsibility of these agents in preserving our peaceful relations with foreign Powers and the importance of attracting to the service some of the able young men who now enter law and railroad offices. While reprobating a few of the diplomatic appointments which have been made in recent years, the Committee registers its approval of the manner in which President Wilson and the State Department have resisted the pressure of the spoilsmen to injure the service. The Committee finds that

in the Consular Service, especially, appointments and promotions have been fairly administered and that the Honorable Wilbur F. Carr has been sustained in his high-minded and efficient direction. "We now have a Consular Service," says the report, "which is placed on what is substantially a merit basis, and we have a half loaf in the diplomatic branch."

Pursuing the recommendations which have already been noted, the Committee thinks the age limit for admission to the foreign service should be reduced to thirty years, that the examinations should be open to every citizen of the United States and not by designation of the President or on recommendation of Senators or Representatives, and that examinations should be held at places convenient to applicants. Appointments, too, should not be distributed among the States in proportion to their inhabitants, but should be freely given to the most competent.

Concerning the salaries and allowances, the Committee shows that the French Ambassador at London receives $7,722 per annum as his personal salary, and $27,799 for entertainments; the French Ambassador at Washington has the same salary and $19,691 for entertainments; the embassy buildings are owned by the French Government. The British Ambassador at Paris receives a salary of $55,932 and the British Ambassador at Washington $48,665. The embassies are owned by the Government, but there appears to be no entertainment fund. The United States, on the other hand, pays its highest ranking Ambassadors $17,500 per annum, makes no entertainment allowance and does not own its embassies in any European capital. The salaries of the higher grade of American Consuls, the Committee finds, are lower than those paid by other governments.

With reference to the extension of the promotion system to the principal officers in the diplomatic service, the Committee shows that the French Minister at Berlin when the war broke out, had had a previous diplomatic experience of ten years, and the British Ambassador of thirty-nine years; at London, the French Ambassador had had a previous experience of sixteen years, and the British Ambassador at Paris twenty-two years. Other illustrations on this point are given. Commentary is made upon the coincidence of diplomatic appointments and heavy contributions to political campaign funds by the gentlemen chosen to represent this country abroad.

The Committee recommends that consuls be permitted to transfer,

on occasion, to the diplomatic service, wisely arguing that once the right of transfer is recognized the prestige of the consular service will rise to the level of the diplomatic service. An improved system of transfer from the State Department staff to the diplomatic and consular service is urged and the need of increasing the salaries which are now paid in the State Department. A table gives the purchasing power of the salaries of 1918 compared with those of 1898. It appears that to make his salary of 1918 equal in value to the salary paid in 1898, the Secretary of State, who now receives $12,000 per annum, should have $22,230, and the Second and Third Assistants who now receive $4,500, should have $9,726.50. Several interesting appendices relate to political appointments, citing the famous Van Allen case in 1893 and the more recent case of James M. Sullivan, Minister to the Dominican Republic, and the recommendations for improvement of the service made by officers of the department and diplomatic and consular officers.

Nobody who reads this review will deny that most of the recommendations of the League are sound. Embassies and legation buildings, generally, and some consulates should belong to the nation whose representatives occupy them, and the nation should pay for the maintenance of the buildings. The problem of salaries disappears as soon as this is done. There is no good reason why there should not be greater use of the promotion system in the diplomatic service. Interchange between the diplomatic and consular services would be a happy solution of the anomalous condition under which consuls enjoy less prestige than diplomats.

Some of the League's recommendations are directed to the Executive, which regulates entrance examinations and can arrange them to suit itself, may extend the promotions in the diplomatic service, and, probably, might prescribe an interchange of diplomatic and consular officers. With salaries, allowances and the purchase of residences abroad, of course, Congress alone can deal. The question of political contributions and diplomatic offices as a reward to those who have made them is the most serious of all the problems. It can only be partly solved by the Government's ownership of the embassies and legations, for diplomatic service with foreign residence and social prestige will always be attractive to a certain class of rich men.

It is a hard thing, too, to say how the best class of young men can be attracted to the foreign service in view of the many avenues to

success offered by work at home. A man who enters the foreign service can only look forward to a salary which is insignificant when compared with that of a railway president or a successful lawyer. The reviewer suggests, too, that if only very young men, as the report proposes, are taken into the service, the question of their expatriation arises. The question, in fact, exists already. It is not good for a man to live continuously outside of his own country, keeping up his knowledge of home affairs only by reading American newspapers and conversing with traveling or non-resident Americans. The home government should, in fact, require its agents to return at stated periods and should put them to work at points where they must come in contact with home affairs.

This book is useful, not only for what it says, but for the discussion which it should arouse, and it is to be hoped that the discussion may become more general than it has been hitherto, for out of it improvement will come.

GAILLARD HUNT.

*Histoire de l'Internationalisme.* By Christian L. Lange. Kristiania: l'Institut Nobel Norvegien, 1919. Vol. 1, pp. xv, 520.

In these days when the development of some effective form of international government is of prime importance to all the world, this book is a timely one. It is written, also, by a master-hand. Its distinguished author, the Secretary of the Nobel Committee of the Norwegian Storting, technical delegate to the Second Hague Conference, secretary for many years of the Interparliamentary Union, and a publicist eminent in his own country and abroad, was admirably fitted by training and experience to write this, the standard, History of Internationalism. His erudition has enabled him to gather his materials from many and distant sources. The best books relating to his subject in seven languages have been utilized, not only for the best that is in them, but for a condensation and an interpretation which are noteworthy for their clear and luminous incisiveness.

This first volume of the work covers the period from classical antiquity to the Peace of Westphalia. Internationalism, or, rather world-organization, in the ancient world, is discussed in a dozen or fifteen pages which stress Hellenic federation and arbitration and the society of Mediterranean cities known as the Roman Empire.

The humanitarian and international ideas of Zeno, Cicero, Seneca, Epictetus and Marcus Aurelius are cited to show the progress, and the backwardness, which characterized the ancient world under Græco-Roman leadership.

Primitive Christianity, the Christian Church and the mediæval sects, are passed in review, and their place in the story is reflected from the views of Marcian, Origen, and Lactantius; St. Augustine, Henry of Susa, John of Legnano; the Chiliasts, the Cathari, the Albigenses, the Vaudois, the Lollards, and the Hussites. The progress made towards internationalism and indeed towards extreme Tolstoian and Quaker pacifism, during this period, despite the conflicting forces between and among the various exponents of Christianity, may be estimated from the teachings of William Whyte, a disciple of John Wyclif. Whyte carried the Lollard doctrines to their logical conclusion by condemning all war, even that in defense of one's country, and by opposing the infliction of capital punishment upon any human being.

The champions of the internationalism, or universality, of the Holy Roman Empire are represented by Dante, Marsile de Padua, Engelbert of Admont and Jacques Antonii; while the Papacy's claims are put forward through a clear statement of the views of Thomas Aquinas. The most advanced internationalist ideals during this period, our author finds in the works of Pierre Dubois and King Georges Podiebrad of Bohemia, and in the "Treaty of Universal Peace" of October 2, 1518, concluded between Francis I and Henry VIII, and adhered to later by Charles V; and to an exposition of these ideals he devotes three dozen instructive pages.

One of the most valuable features of this part of the work is a brief but instructive history of mediæval arbitration (pp. 123-130). From this story it appears clear that Novacovitch was right when he noted the decline of arbitration with the rise of the "great powers"; and our author laments the fact that the practice of arbitration should have been so brusquely ended by them. The continued influence of arbitration, however, even though fallen into desuetude, was apparent in the works of such writers as Pierre Dubois. As for the sanction of arbitral awards, the mediæval world had gotten no farther than the advocacy of military force applied by the arbitrator; but even our own age will recognize in this the ruling passion strong in death.

The internationalism of the Renaissance found expression in the

Christian humanists, Erasmus (upon whom Dr. Lange bestows enthusiastic but discriminating praise), More, Vives, Clichtove, Nettesheim, Franck, Rabelais, and Montaigne. The three chief impulses of the Renaissance, namely humanism, geographical discoveries, and religious reformation, appear to have had conflicting or confused influence upon the development of internationalism; while the Protestant and the reformed Catholic churches alike failed—as in the days of the early Christian church—to solve the great problem, Bellarmino, Calvin and Luther having contributed but little or nothing towards its solution.

As the heresies of the Middle Age supplied a leaven of genuine internationalism to ecclesiastical orthodoxy, so the Protestant sects of the seventeenth century advanced the standard of internationalism —as of most other beliefs and practices—far beyond the terminus of official Christianity. The Anabaptists, Mennonites, Moravians, Familists, Independents, and particularly the Socinians and Quakers, were the leading non-conformists in the matter of war as in most matters of peace. Radicals though they were, our author evidently regards with a favorable eye and a sense of gratitude such sturdy champions of the international ideal as Menno Simons, Socinus, Fox, Penn, Barclay and Dymond.

How rich the seventeenth century was—both within and without the realm of the church—in writers on various phases of internationalism, our author makes very plain by his discussion of the theories and plans of a round score of dreamers, idealists and planners of various lands. Of these, about one-half are of German and one-half of French descent, and our author attaches most importance among them to Comenius, De la Noue, and the anonymous author of the "Apologie de la Paix."

The development of international law in the hands of Franciscus a Victoria, Suarez, Gentilis and Grotius, is exceedingly well told in itself, and its basic connection with the internationalism of later times is made very clear.

Finally, more than a hundred pages are devoted to the beginnings of the international organization which is becoming familiar in our time. More than a third of these fall to Crucé, about the same number to Sully, and the rest to Campanella and Postel. Although most readers are here on more familiar ground than is found in many parts of the book, they will appreciate the excellence of the analyses

and be impressed by the great promise of the birth and infancy of those ideals of international organization, the approaching realization of which will doubtless be unfolded in the author's much-anticipated Volume II.

WILLIAM I. HULL.

*La Situation Internationale de la Grèce* (1821-1917). Recueil de documents choisis et édités avec une introduction historique et dogmatique par CHARLES STRUPP. Zurich: Die Verbindung. pp. 256.

The Balkan Peninsula played a prominent part in the recent World War, not only as an important theater for the war operations of the two great contending parties, but also as a center of European diplomatic intrigue. While the Central Powers, after outwitting their opponents by winning over Turkey and Bulgaria to their side, were straining every nerve to entangle Greece also in their net, the Entente Allies by their inept diplomacy came near losing the coöperation of the Hellenic State in the great struggle.

As is well known, the siding of Greece with the Entente Allies was not effected peacefully. The Hellenic State was shaken to its very foundations because of the autocratic rule established in that country by the ex-King Constantine—the brother-in-law of the former Emperor of Germany—who, disregarding the popular will as expressed by the elections of June, 1915, was secretly working for the interests of the Central Powers and waiting for an opportunity to throw in his lot with them. A great deal has already been written on this subject from the point of view of the Allies, but little attention has been hitherto paid to it by those writing on the German side.

A book which has recently appeared entitled *La situation internationale de la Grèce*, by Charles Strupp, makes an attempt to fill this gap. The work consists of an introduction of 64 pages, with a collection of diplomatic documents and treaties concerning the Hellenic State from the year 1821, the time of the Greek War of Independence, to the year 1917, the time of the expulsion of Constantine from Greece.

Dr. Strupp in his introduction reviews the diplomatic history of the Greek War of Independence and also gives a summary of the policies at that time advocated by the European Chancelleries, and

notes their gradual change to a point of view favoring the liberation of the Greek people from the Turkish yoke.

The Revolution of 1862 which had as an object the overthrow of the Bavarian dynasty in Greece is dismissed by the writer with a few observations regarding the policy of the three Protecting Powers of Greece (Great Britain, France and Russia). He overlooks the very cause which gave rise to that revolution and to the previous one of 1843. As is well known, the expulsion of the late King Otto of Greece was due to his arbitrary rule. The Swiss writer succinctly traces the political events which followed the ascension of the late King George I to the Greek throne, and after referring to the various vicissitudes through which the Hellenic State has passed, he discusses the events which have taken place in Greece during the recent World War.

It is in the course of this last review that Dr. Strupp attempts to justify the conduct of Constantine towards the three Protecting Powers on the plea that the ex-King's only concern was to "keep his country out of war," or, in a word, to remain neutral. It is possible, indeed, that the very object of the book is to justify the conduct of Constantine during that war. Referring to Constantine as Greece's "grand roi" (Great King), the Swiss writer criticizes the stand taken by the Allies toward Greece. "The political intervention," he says, "of the so-called 'Protecting Powers' of Greece is nothing but a new manifestation of the tendencies of the Holy Alliance which were characteristic of the history of the nineteenth century." But it is a travesty of truth when he says that if Greece resisted until she was subjected to the force of foreign guns, this admirable struggle should entitle her to bear the title of champion of international law thus cruelly wounded during this war. Thus we are given to understand that it is the Entente Powers who have violated the law of nations and not Germany and her Allies. According to Dr. Strupp, Mr. Venizelos was only an easy tool in the hands of the Allies. The apologist of Constantine endorses the ex-King's theory that, according to the Greco-Serbian Treaty of Alliance, Greece was not bound to help Serbia when attacked by Bulgaria. The treaty is so explicit on this point, and the circumstances under which it was concluded are so well known, that it is needless to dilate upon this point.

In discussing the expulsion of Constantine by the Allies—who

founded their right for intervention on the provisions of the treaty of 1863 by which they had guaranteed a constitutional monarchy in Greece—he advances the sophistical argument that a *casus guarantiæ* could only come into play in case the constitution was abolished, but not in case it was in any way modified, because, he argues, Greece is a constitutional monarchy as long as she has a king at her head and has a constitution. This is pure casuistry. According to this reasoning, the King of Greece may violate the constitution, but as long as he limits his action to modifications of it and not to an abrogation, Greece continues to be a constitutional state, notwithstanding the provision of the constitution which specifies in what manner modifications may be made to it. But supposing, says this apologist of Constantine, that the treaty of 1863 gave the right of intervention against any kind of violation of the constitution, still this right cannot be invoked by the guaranteeing powers without a previous request from Greece. "Who," he adds, "would have the right to request the assistance of the guarantors? If one does not wish to come into conflict with the most fundamental principles, it would be no other but the person who, from the point of view of international law, represents the Hellenic State, that is to say . . . the king in conformity with Article 32 of the revised Greek Constitution of 1911."

Dr. Strupp evidently overlooks the fact that Greece is not Prussia but "a royal democracy," and that, according to Article 21 of her constitution, "all powers emanate from the nation" and that, therefore, the King of Greece cannot say *"l'Etat c'est moi."* The article of the constitution which he invokes (Article 32), that the king is the supreme chief of the state, exists in all the constitutions of those constitutional states whose chief of state is a king, but this does not mean that such sovereigns are absolute monarchs. On the contrary, the government of such states lies in the hands of the representatives of the nation, or the parliament, and this is also the case with Greece.

The writer, emphasizing his point still further, argues that the charge that Constantine violated the constitution by twice dissolving the national legislature has no foundation because the ex-king in thus acting adhered to a definite provision of the constitution (Article 37), and his right to do this was absolute. In other words, that he had the right to dissolve the Greek Parliament as many times as he wished. Dr. Strupp fails to see that under such a system constitutional royalty would be a mere mockery, and that a king by resorting to measures

like this can assume dictatorial powers under the guise of the exercise of constitutional authority.

Referring to the status of the reigning King of Greece, Alexander, he says that the latter is only a private person with a royal title because neither the king nor the heir to the throne have abdicated . . . and that therefore Prince Alexander is not a king."

The champion of Constantine evidently forgets the fact that the Allies in their note to the ex-king at the time of his expulsion requested him to abdicate and that he agreed to leave the country. Therefore, as Mr. Venizelos has quite recently said in refuting this point of view, such argumentation is pure chicanery.

On the whole, Dr. Strupp seems to have assumed the task of justifying the arbitrary acts of Constantine, who during his short reign not only evinced a most autocratic spirit, arrogating to himself the so-called "divine right of authority" in Greece, but also has done everything in his power to help the cause of Germany and that of his brother-in-law William, as is evidenced by the secret correspondence exchanged between the two royal courts, and other official documents, which have since that time been made public.

THEODORE P. ION.

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